ABRIDGMENT

OF THE

PUBLIC PERMANENT LAWS

OF

VIRGINIA.

THE REPEALING CLAUSES IN THE SEVERAL LAWS WHICH HAVE THEM, ARE REDUCIBLE TO A FEW FORMS, AND ARE ALIKE IN GENERAL. TO PREVENT THE SWELLING OF THE BOOK UNNECESSARILY, AND YET TO GIVE AT THE SAME TIME THE OPERATIVE WORDS OF EVERY LAW, REFERENCE IS MADE AT THE CLOSE OF EVERY LAW TO THE FORM OF REPEAL AS IT IS SET FORTH VERBATIM IN THE APPENDIX.

EVERY ACT PASSED ON OR AFTER OCTOBER 19, 1792, IS TO BE UNDERSTOOD TO CONTAIN THE FOLLOWING CLAUSE OF COMMENCEMENT: "THIS ACT SHALL COMMENCE "IN FORCE FROM AND AFTER THE PASSING "THEREOF;" UNLESS ITS COMMENCEMENT SHALL BE PARTICULARLY EXPRESSED TO BE ON A DIFFERENT DAY, OR IN A DIFFERENT FORM. THOSE ACTS WHICH PASSED BEFORE THE 19th OF OCTOBER, 1792, AND COMMENCE THEIR OPERATION ON A DIFFERENT DAY FROM THE DAY OF THEIR PASSING, WILL BE SPECIFIED.

THE DATE PREFIXED TO EACH LAW IS THE DAY ON WHICH IT PASSED.

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PREFACE.

THE Editor of this Abridgment is free to own, that when he undertook it, on the plan of the late John Mercer, Eſquire, he did not foreſee, how incompatible it was with his main object; which was ſo to arrange the Abridgment, under general heads, as to render it a ſubſtitute for the Reviſed Code. That plan was incompatible; becauſe, a compilation which ſhould embrace only *parts* of laws, would, in numberleſs inſtances, make it neceſſary to reſort to the laws in their *entire* ſtate. He was apprehenſive, too, that he might not be as accurate as Mr. Mercer, in comprehending every clauſe in every law, and in ſtriking out the expreſſions which were merely ſynonymous. Indeed, the method purſued by the laſt Reviſers, of bringing into the ſame acts all kindred matter, recommended the preſervation of thoſe acts in a form unmutilated, except in ſome unintereſting preambles, and in the repealing clauſes.

The copious index which was promiſed, was, in a great meaſure, executed; but when its bulk was compared with the unavoidable ſize of the body of the book, after it was printed, it ſeemed to threaten ſuch a maſs, as to produce a very unwieldy volume, or to require a diviſion of the work into two volumes. The Editor, therefore, reſolved to wait for the experience of a friend or two, and himſelf, in order to decide whether an index, upon the plan now adopted, when combined with the alphabetical arrangment under the moſt obvious heads, might not anſwer the purpoſe. This experience warrants him to believe, that if under the general heads in the body, any ſubject ſought for ſhall not be found, ſome correſpondent head will appear in the index.

Moſt of the laws omitted, are not of ſuch a nature as to be deemed important to an Abridgment: they are private; or, for the erection of particular companies, towns, or warehouſes; or ſuch as have expired or have had their effect. Thoſe of a public nature omitted, are, 1. The Bill of Rights: 2. The Conſtitution: 3. All of Lord Fairfax's Act, except the fourth ſection: 4. The preamble in the act, confirming the grants in the Northern-Neck: 5. The act, authorizing the conveyance of the lands, North Weſtward of the Ohio, to Congreſs: 6. The act, confirming the compact with Maryland: 7. The act, concerning the ceded Territory: 8. The act, authorizing the Governor to convey land for a Light-Houſe:

9. For the ceſſion of ten miles ſquare: 10. The erection of Kentucky into an independent diſtrict: 11. Concerning the Southern Boundary of the State: 12. The old Militia Law: 13. Concerning appropriations of money: 14. Concerning appropriations of public revenue: 15. Making proviſion as to arrears of taxes: 16. Making proviſion for the ſecurity of literary authors, a ſubject which has been taken up by Congreſs: 17. For the eſtabliſhment of certain Banks: 18. Allowing travelling expenſes of Judges: 19. Reſpecting Tyger's Valley River: And particulars of the laws of Ferries, Tobacco, and Fees.

The two acts omitted out of the Reviſed Code, for electing Repreſentatives to Congreſs, and the Electors of a Preſident and Vice-Preſident, are ſubjoined, having been omitted at firſt from the Abridgment, from a doubt whether laws not contained in the Reviſed Code, ſhould be contained in the Abridgment.

In refering to the acts of which ſome of the laws in the Reviſed Code are compounded, it has been impoſſible to mark out each law, from which the different parts of the exiſting acts have been taken; the original matter of them having been ſo much interwoven with new matter. Hence it is not to be underſtood by a reference to former laws, that the matter of the old and new laws is the ſame; but only, that ſome of the leading ideas are ſo. The tobacco law is an example of this.

Parts of ſome repealed law are introduced, where caſes may ſtill ariſe for adjudication. Of this ſome of the former execution laws are inſtances.

The laws of 1796, having been publiſhed after the heads under the letter E. were printed off, they will not always be found diſtributed under the heads in the body of the work; but they appear in the Supplement.

It is intended to publiſh at the end of every ſeſſion, a ſimilar Abridgment of the public laws, printed on the paper of the ſame ſize with the former.

It is extremely probable, nay certain, that in this book there are various errors, which may have been occaſioned by the particular circumſtances under which it was compiled. When any ſuch of importance, ſhall be diſcovered by the Editor's own obſervation, or that of others, who will be ſo obliging as to inform him of them, the moſt effectual means will be uſed to announce them to the public.

Under theſe ſeveral circumſtances it is hoped, that the ſubſcribers, who amount to about three hundred, will be ſatisfied with the reaſons given for changing the original plan of the Abridgment; eſpecially when they are told, that no perſon need to conſider himſelf as under an obligation to receive the book unleſs he pleaſes, or to feel the ſmalleſt ſcruple in refuſing it. Whoſoever of them ſhall apply according to their ſubſcription, will be required to pay no more than the ſum at firſt ſtipulated.

ABRIDGMENT

OF THE

PUBLIC PERMANENT LAWS

OF

VIRGINIA.

ABATEMENT.

December the 19th, 1792.—*(a)*

§ 1. IN all actions, real or mixed, which ſhall hereafter be brought for the recovery of any lands or tenements, within this commonwealth, if the tenant ſhall plead that he holdeth the tenements in demand, jointly with his wife, or any other perſon not named in the writ, and ſhew forth a deed teſtifying the ſame, and demand judgment of the writ, and thereupon iſſue be joined, and it be found againſt the truth of the plea by him in manner and form aforeſaid pleaded, the plaintiff ſhall recover his ſeizin of the tenements in demand, and double damages againſt the party by whom ſuch plea ſhall have been pleaded; but if it be found that the matter aforeſaid was truly and lawfully alledged by ſuch defendant in his plea, the writ ſhall be abated.

II. *Provided always*, That no ſuch plea ſhall be admitted or received, in any caſe, unleſs the party offering the ſame, ſhall prove the truth thereof by oath or affirmation, as the caſe may require.

The repealing clauſe is as in the appendix No. 1.

December the 19th, 1792—*(b)*

BY the exception of non-tenure of parcel, of any lands or tenements, for which any action or ſuit ſhall be brought, the writ ſhall not be abated, but for the quantity of the non-tenure which is alledged.

The repealing clauſe is as in the appendix No. 1.

ABSENT DEBTORS, ABSENT DEFENDANTS, ABSCONDING DEBTORS AND ATTACHMENTS.

December the 26th, 1792.

§ 1 WHEREAS creditors have experienced great difficulties in the recovery of debts due from perſons reſiding without the juriſdiction of this commonwealth, but who have effects here ſufficient to ſatisfy and pay ſuch debts: For remedy whereof, *(c)*

II. If any ſuit which hath been, or hereafter ſhall be commenced for relief in equity in the high court of chancery, or in any other court, againſt any defendant or defendants who are out of this country, and others within the ſame, having in their hands effects of,

(a) 34. Edw. 1. c. 1. *(b)* 25. Edw. 3. c. 16. *(c)* 1744. c. 1.

or otherwiſe indebted to ſuch abſent defendant or detendants, and the appearances of ſuch abſentees be not entered, and ſucurity given, to the ſatisfaction of the court for performing the decrees, upon affidavit that ſuch defendant or defendants are out of the country, or that upon enquiry at his, her, or their uſual place of abode, he, ſhe, or they, could not be found ſo as to be ſerved with proceſs, in all ſuch caſes, ſuch court may make any order, and require ſurety if it ſhall appear neceſſary, to reſtrain the defendants in this country from paying, conveying away, or ſecreting the debts by them owing to, or the effects in their hands of ſuch abſent defendant or defendants, and for that purpoſe may order ſuch debts to be paid and effects delivered to the ſaid plaintiff or plaintiffs, upon their giving ſufficient ſecurity for the return thereof to ſuch perſons, and in ſuch manner as the court ſhall direct. *(a)*

III. The court ſhall alſo appoint ſome day in the ſucceeding term, for the abſent defendant or defendants to enter his or their appearance to the ſuit, and give ſecurity for performing the decree, a copy of which order ſhall be forthwith publiſhed in ſome public newſpaper publiſhed in this ſtate, convenient to the place where the court is held, and continued for two months ſucceſſively, and another copy ſhall be poſted at the front door of ſuch court. If ſuch abſent defendant or defendants, ſhall not appear and give ſuch ſecurity within the time limited, or ſuch further time as the court may allow, for good cauſe ſhewn, the court may proceed to take ſuch proof as the complainant ſhall offer; and if they ſhall thereupon be ſatisfied of the juſtice of the demand, they may order the bill to be taken as confeſſed, and make ſuch order and decree therein as ſhall appear juſt, and may enforce due performance and execution thereof, by ſuch ways and means as hath heretofore been uſed for enforcing other decrees, requiring the plaintiff or plaintiffs to give ſecurity as the court ſhall approve, for abiding ſuch future order as may be made for reſtoring the eſtate or effects to the abſent defendant or defendants, upon his or their appearance and anſwering the bill; and if the plaintiff or plaintiffs ſhall refuſe to give, or not be able to procure ſuch ſecurity, the effects ſhall remain under the direction of the court in the hands of a receiver, or otherwiſe, for ſo long time, and ſhall then be finally diſpoſed of, in ſuch manner as to the court ſhall ſeem juſt. *(b)*

IV. If any perſon or perſons who ſhall be out of the commonwealth at the time any decree is pronounced as aforeſaid, ſhall within ſeven years from the paſſing ſuch decree, return, and appear openly; or in caſe of his or her death, if his or her heir, executor, or adminiſtrator, ſhall, within the ſaid ſeven years, be, and appear openly within this commonwealth, the plaintiff or plaintiffs, their executors or adminiſtrators, ſhall ſerve ſuch perſon or perſons ſo returning or appearing, with a copy of the decree, within a reaſonable time after ſuch return or appearance ſhall be known to the plaintiff or plaintiffs, and thereupon ſuch defendant or defendants, or their repreſentatives, may within twelve months after ſuch ſervice, or thoſe defendants not ſerved with a copy, or their repreſentatives, may, within ſeven years after the decree pronounced, appear in court and petition to have the cauſe reheard; and upon their paying down, or giving ſecurity for payment of ſuch coſts as the court ſhall think reaſonable, they ſhall be admitted to anſwer the bill, and iſſue may be joined, and witneſſes on both ſides examined, and ſuch other proceedings, decree, and execution had, as if there had been no former decree in the cauſe: But, if the ſeveral defendants, or their repreſentatives, upon whom the decree ſhall be ſo ſerved, ſhall not within twelve months after ſuch ſervice, and the other defendants, or their repreſentatives, upon whom no ſuch ſervice is made, ſhall not within ſeven years from the time of the decree pronounced, appear and petition to have the cauſe reheard as aforeſaid, and pay or ſecure to be paid, ſuch coſts as the court may think reaſonable, all and every decree to be made in purſuance of this act againſt any defendant or defendants ſo failing, ſhall ſtand abſolutely confirmed againſt him, her, or them, by virtue of any act or conveyance, done or made, ſubſequent to the commencement of the ſuit, and at the end of ſuch term, the court may make ſuch further order for quieting the plaintiff or plain-

(a) 1744. c. 1. Oct. 1777. c. 15. § 3. 6. *(b)* 1744. c. 1. Oct. 1777. c. 15. § 37.

tiffs in any ſuch ſuits, in their poſſeſſion and title to the eſtates and effects ſo ſequeſtered or made liable, as to them ſhall ſeem reaſonable. *(a)*

V. In all caſes whatever, where a ſuit is or ſhall be depending in the high court of chancery, or other court of equity, concerning any matter or thing whatever againſt any abſent defendant or defendants, the court may, on ſatisfactory proof to them made, that ſuch defendant or defendants, is or are out of this commonwealth, or, that upon enquiry at his, her, or their uſual place of abode, he, ſhe, or they could not be found, make any order ſimilar to that which is directed to be made in caſe of abſent debtors, adapting the ſame to the nature of the caſe; a copy of which order ſhall be publiſhed in like manner as is directed in caſe of abſent debtors, and thereupon if the appearance of ſuch abſent defendant or defendants be not entered, the complainant may proceed in like manner as if an appearance had been entered. *Provided always*, That where ſuch decree ſhall be made, ſuch abſent defendant or defendants, may at any time within ſeven years, be permitted to file his, her, or their anſwer, and to ſhew cauſe why the ſaid decree ſhould be ſet aſide; upon which the court may make ſuch decree as ſhall appear to be equitable *(b)*

VI. If any perſon ſhall make complaint to any juſtice of the peace, that his debtor is removing out of the county or corporation privately, or abſconds or conceals himſelf, ſo that the ordinary proceſs of law cannot be ſerved on him, ſuch juſtice ſhall grant an attachment againſt the eſtate of ſuch debtor, or ſo much thereof, as ſhall be ſufficient to ſatisfy the debt and coſts of ſuch complainant; which attachment, where the debt or demand ſhall exceed five dollars or two hundred pounds of tobacco, ſhall be returnable to the next county or corporation court, and directed to and ſerved by the ſheriff, or his under-ſheriff, unleſs in caſe where the ſheriff is a party intereſted, and then, the ſame ſhall be directed to, and ſerved by a coroner, or ſerjeant; and it ſhall be lawful for ſuch ſheriff or officer, to ſerve and levy the ſame, upon the ſlaves, goods and chattels of the party abſconding, wherever the ſame ſhall be found, or in the hands of any perſon or perſons indebted to, or having any effects of the party abſconding, and to ſummon ſuch garniſhee or garniſhees to appear at the next court to be held for the county or corporation, there to anſwer upon oath, what he or ſhe is indebted unto ſuch party, and what effects of ſuch party, he or ſhe hath in his or her hands, or had at the time of ſerving ſuch attachment; which being returned executed, the court may thereupon compel ſuch garniſhee to appear and anſwer as aforeſaid. *(c)*

VII. *Provided always*, That every juſtice of peace, before granting ſuch attachment, ſhall take bond and ſecurity of the party for whom the ſame ſhall be iſſued, in double the ſum to be attached, payable to the defendant, for ſatisfying and paying all coſts which ſhall be awarded to the ſaid defendant, in caſe the plaintiff ſuing out the attachment therein mentioned, ſhall be caſt in his ſuit, and alſo all damages which ſhall be recovered againſt the ſaid plaintiff for his ſuing out ſuch attachment; which bond ſhall be by the ſame juſtice, returned to the court to which the attachment is returnable; and the party entitled to ſuch coſts or damages, may thereupon bring ſuit, and recover; and every attachment iſſued without ſuch bond taken, or where no bond ſhall be returned, is hereby declared illegal and void, and ſhall be diſmiſſed. *(c)*

VIII. *Provided alſo*, That all attachments ſhall be repleviable by appearance, and putting in good bail, if by the court ruled ſo to do, or by giving bond with good ſecurity to the ſheriff or other officer ſerving the ſame; which bond, the ſheriff or other officer is hereby empowered and required to take, to appear at the court to which ſuch attachment ſhall be returnable, and to abide by and perform the order and judgment of ſuch court. *(c)*

IX. That upon the defendant or defendants replevying any attached effects, by giving bond and ſecurity to the ſheriff or other officers as aforeſaid, the ſheriff ſhall return the name of the ſecurity by him ſo taken; and if ſuch ſecurity ſhall be adjudged inſufficient by the court, and if the defendant ſhall fail to appear and give ſpecial bail, if thereunto ruled

(a) Oct. 1777. c. 15. § 39. 1744. c. 1. *(b)* Oct. 1787. c. 9. § 2, 3. *(c)* 1748. c. 4. § 6, 7, 8, 9, 10, 11, 12.

by the court, ſuch ſheriff and ſecurity ſhall be ſubject to the ſame judgment and recovery, and have the ſame liberty of defence and relief, as if ſuch ſecurity had been taken upon the execution of meſne proceſs. *(a)*

X. It ſhall be lawful for any creditor, where his debt doth not exceed twenty dollars or one thouſand pounds of tobacco, to go before any juſtice of the peace of the county or corporation where his debtor reſides, and make oath how much is juſtly due to him, and that he hath grounds to ſuſpect, and verily believes, that ſuch debtor intends to remove his effects; and thereupon ſuch juſtice ſhall iſſue an attachment againſt the eſtate of ſuch debtor, returnable to his next county or corporation court, directed to all ſheriffs, ſerjeants, and conſtables within the commonwealth; and by virtue thereof, it ſhall be lawful as well for the ſheriff, ſerjeant, or any conſtable of the county or corporation where ſuch attachment ſhall be obtained, as for the ſheriff, ſerjeant, or any conſtable of other counties or corporations, to purſue and ſeize ſuch effects, and to make return of ſuch attachment to the court where the ſame ſhall be returnable; and thereupon, ſuch proceedings ſhall be had without a petition, as in other caſes of attachment. *(a)*

XI. And upon complaint made to a juſtice of peace, that any perſon indebted to the complainant in any leſs ſum than five dollars, or two hundred pounds of tobacco, is removing out of the county or corporation privately, or ſo abſconds or conceals himſelf that a warrant cannot be ſerved upon him, ſuch juſtice ſhall, taking bond and ſecurity, as in this act is before directed, grant an attachment againſt the eſtate of ſuch debtor, or ſo much thereof, as ſhall be of value ſufficient to ſatisfy the debt and coſts of the party praying ſuch attachment, directed to the ſheriff, or any conſtable of his county, or ſerjeant, or any conſtable of his corporation, and returnable before himſelf or any other juſtice thereof, who ſhall and may proceed thereupon, as upon an attachment returnable to the county or corporation court. *(a)*

XII. And if any attachment returnable to the county or corporation court, or before a juſtice of peace, ſhall be returned executed, and the goods or effects attached ſhall not be replevied as this act directs, the plaintiff ſhall be entitled to a judgment for his whole debt, and may take execution thereupon; and all goods and effects attached and not replevied as aforeſaid, ſhall be ſold and diſpoſed of, for and towards ſatisfaction of the plaintiff's judgment, in the ſame manner as goods taken in execution upon a writ of *fieri facias*. And where any attachment ſhall be returned ſerved in the hands of any garniſhee, it ſhall be lawful upon his or her appearance and examination, in the manner by this act before directed, to enter up judgment and award execution againſt every ſuch garniſhee and garniſhees, for all ſums of money due from him, her, or them, to the perſon abſconding, or in his, her, or their cuſtody or poſſeſſion, for the uſe of ſuch perſon, or ſo much thereof as ſhall be of the value ſufficient to ſatisfy the debt and coſts of the complainant; and all goods and effects whatſoever, int he hands of any garniſhee or garniſhees, belonging to ſuch abſconding perſon, ſhall be liable to ſatisfy ſuch judgment. *(a)*

XIII. And whereas attachments are frequently ſerved upon horſes, cattle, hogs, ſheep, and other live ſtock, which the officers ſerving the ſame are obliged to retain in their cuſtody for a length of time, before an order of court can be obtained for the ſale of ſuch live ſtock, or for want of buyers, during which time ſuch ſtock frequently periſh for want of proper food, or are greatly impoveriſhed, to the great detriment both of the creditor and his debtor: For remedy whereof, *Be it enacted*, That when any ſheriff or other officer ſhall ſerve an attachment on horſes or other live ſtock, and the ſame ſhall not be immediately replevied or reſtored to the debtor, it ſhall and may be lawful for ſuch officers, and they are hereby required to provide ſufficient ſuſtenance for the ſupport of ſuch live ſtock, until ſuch ſtock ſhall be ſold or otherwiſe legally diſcharged from ſuch attachment; and upon the trial of any attachment, the court before whom ſuch attachment ſhall be tried, may and ſhall upon the motion of the officer ſerving the ſame, ſettle and adjuſt what ſuch officer ſhall be allowed for his expences incurred by ſupporting ſuch ſtock,

(a) 1748. c. 4. § 6, 7, 8, 9 10, 11, 12.

to be taxed in the bill of coſts againſt the party againſt whom ſuch judgment ſhall be given on ſuch attachment, and the ſame ſhall be retained by the officer out of the money ariſing from the ſale of ſuch ſtock; and the ſaid officer ſhall and may retain the expences of ſupporting ſuch ſtock, taken as aforeſaid, out of the money ariſing from the ſale, to be ſettled in manner aforeſaid. And where the plaintiff in any attachment ſhall be caſt, the expences aforeſaid ſhall be taxed in the bill of coſts againſt ſuch plaintiff, for which the defendant may take execution with the other coſts. *(a)*

XIV. Upon proof being made before a magiſtrate, that a debtor is actually moving or abſconding as aforeſaid on Sunday, it ſhall be lawful to iſſue and ſerve an attachment againſt ſuch debtor, as is directed by this act on any other day. *(a)*

XV. No maſter of a ſhip or other veſſel ſhall tranſport or carry any perſon whatſoever out of this commonwealth, unleſs ſuch perſon ſhall firſt have publiſhed for ſix weeks ſucceſſively in the Virginia Gazette, his, or her reſolution to depart therefrom, under the penalty of anſwering and paying every debt and duty ſuch perſon at his or her departure out of this commonwealth ſhall owe, or ſtand bound for to the commonwealth, or to any citizen thereof, by judgment, bond, bill, covenant, account, or by any other ways or means whatſoever, to be recovered againſt ſuch maſter by action of debt, in any court of record within this commonwealth. *(b)*

XVI. Every maſter of every ſhip or other veſſel offending herein, ſhall be liable to be ſued at any time for any debt due or owing from the perſon ſo tranſported. And whenſoever any ſuch action or ſuit ſhall be brought againſt him, the court wherein the ſame ſhall be depending, may rule the defendant to give ſpecial bail, and the clerk ſhall endorſe on the writ, that appearance bail is required: *Provided*, the plaintiff ſhall make affidavit before a magiſtrate of the cauſe of action, which ſhall be tranſmitted to the clerk of the court. *(b)*

The repealing clauſe is as in the appendix No. 2.

ABSENT DEFENDANTS. *See abſent debtors, abſent defendants, abſconding debtors, and attachments.*

ABSCONDING DEBTORS. *See abſent debtors, abſent defendants, abſconding debtors, and attachments.*

ACCESSARIES. *See Arſon, Benefit of Clergy, and Horſeſtealing.*

ACTIONS. *See Actions Popular and Limitation of Actions.*

ACTIONS POPULAR.

November the 28th, 1786—but did not commence its operation until July 1, 1787.

§ I. IF any perſon hereafter ſue with good faith any action popular, and any defendant in the ſame action, plead any manner of recovery by action popular, in bar of the ſaid action, or that he before that time barred any plaintiff, in any ſuch action popular

(a) 1772. c. 6. *(b)* 1748. c. 17. § 1, 2.

then the plaintiff in the action taken with good faith, may avet that the ſaid recovery, in the ſaid action popular, was had by covin, or elſe may aver that the ſaid plaintiff was barred in the ſaid action popular by covin: Then if after the ſaid colluſion or covin ſo averred be lawfully found, the plaintiff in that action ſued with good faith, ſhall have recovery according to the nature of the action, and execution upon the ſame, in like wiſe and effect as though no ſuch afore had been had. *Provided always*, That no plaintiff be in any wiſe received to aver any covin, in any action popular, where the point of the ſame action, or elſe the covin or colluſion ſhall have been once tried, or lawfully found with the plaintiff, or againſt him by trial of twelve men, and not otherwiſe. *(a)*

II. If the proſecutor of an action or information, for the recovery of any penalty not wholly appropriated to the uſe of ſuch proprietor, ſhall compound with the offender, or direct ſuch ſuit or information to be diſcontinued, unleſs it be by leave of the court wherein the ſaid ſuit or information ſhall be depending, ſuch proſecutor ſhall be liable for ſo much of the penalty to the commonwealth, or any other, as they would have been entitled to, if the defendant had been convicted.

ADJOURNMENT OF COURTS. *See Courts.*

ADMINISTRATORS. *See Wills, Executors, Adminiſtrators and Inteſtates.*

AFFRAYS.

November the 27th, 1786—but did not commence its operation until July 1, 1787.

NO man, great nor ſmall, of what condition ſoever he be, except the miniſters of juſtice in executing the precepts of the courts of juſtice, or in executing of their office, and ſuch as be in their company aſſiſting them, be ſo hardy to come before the juſtices of any court, or other of their miniſters of juſtice, doing their office, with force and arms, on pain, to forfeit their armour to the commonwealth, and their bodies to priſon, at the pleaſure of a court; nor go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the country, upon pain of being arreſted and committed to priſon by any juſtice on his own view, or proof by others, there to abide for ſo long a time as a jury, to be ſworn for that purpoſe by the ſaid juſtice, ſhall direct, and in like manner to forfeit his armour to the commonwealth; but no perſon ſhall be impriſoned for ſuch offence by a longer ſpace of time than one month. *(b)*

ALIENATIONS OF LANDS. *See Wrongful Alienations of Lands.*

December the 5th, 1785—but did not commence in force until July 1, 1787.

§ I. ALL alienations and warranties of lands, tenements, and hereditaments, made by any, purporting to paſs or aſſure a greater right or eſtate than ſuch perſon may lawfully paſs or aſſure, ſhall operate as alienations or warranties of ſo much of the right and eſtate in ſuch lands, tenements, or hereditaments, as ſuch perſon might lawfully convey; but ſhall not paſs or bar the reſidue of the ſaid right or eſtate purported to be conveyed or aſſured. *(c)*

(a) 4. Hen. 7. c. 20. *(b)* 2. Edw. 3. c. 3. *(c)* 4. Ann. c. 16.

II. But if the deed of the alienor doth mention that he and his heirs be bound to warranty, and if any heritage deſcend to the demandant of the ſide of the alienor, then he ſhall be barred for the value of the heritage that is to him deſcended. And if in time after any heritage deſcend to him by the ſaid alienor, then ſhall the tenant recover againſt him of the ſeizen warranted, by judicial writ, that ſhall iſſue out of the rolls of the Juſtices, before whom the plea was pleaded, to re-ſummon his warranty, as before hath been done in caſes where the warrantor cometh into the court, ſaying that nothing deſcended from him by whoſe deed he is vouched.

ALIENS.

December the 3d, 1785—but commenced in force January 1, 1787.

§ I. IN caſe that war ariſe betwixt the United States of America and any foreign ſtate, the merchants and people of ſuch ſtate, their families, agents, and ſervants, found in this commonwealth, at the beginning of the war, ſhall not be attached either in their body or goods becauſe of ſuch war, but ſhall be warned by proclamation from the governor, taking thereon the advice of the council of ſtate, that they ſhall depart the commonwealth with their families, agents, and ſervants, aforeſaid, and their goods, freely within forty days after the proclamation made and publiſhed. In the meantime they ſhall not be impeached, nor let of their paſſage, or of making their profit of the ſame merchandiſes, if they will ſell them. And in caſe that for default of wind or of ſhip, or for ſickneſs, or for other evident cauſe, they cannot depart the commonwealth within ſo ſhort a time, then they ſhall have other forty days, or ſo much more as the neceſſity of their affairs may require, and the governor and council may think it ſafe to allow, and in the mean time may ſell their merchandiſe as afore is ſaid. *(a)*

II. But if before their departure credible intelligence ſhall be brought to the governor, that the merchants or people of any of the United States be evil treated in the land making war againſt us, then they ſhall be attached without harm of body or goods, until the truth of the matter be certainly known unto the governor and council of ſtate: And if the merchants and people of the United States be well treated there, theirs ſhall be likewiſe with us: And if otherwiſe, theirs ſhall be treated or demeaned within the commonwealth, in the manner, form, and condition as the merchants or people of the United States be treated or demeaned in the land making war againſt us.

APPEALS. See Court of Appeals, High Court of Chancery, and Diſtrict Courts.

APPRENTICES. See Guardians, Orphans, Committees, Infants, and Apprentices.

ARSON, BENEFIT OF CLERGY, ACCESSARIES TO FELONIES AND RECEIVERS OF STOLEN GOODS.

December the 26th, 1792.

§ I. ALL and every perſon and perſons, that ſhall at any time, either in the night or the day, maliciouſly, unlawfully and willingly, burn any houſe or houſes whatſoever, or ſhall comfort, aid, abet, aſſiſt, counſel, hire, or command, any perſon or perſons

(a) Magna Charta. 9. Hen. 3. c. 30.

to commit any of the ſaid offences, being thereof convicted or attainted, or being indicted thereof, ſhall ſtand mute, or will not anſwer directly to the indictment, or ſhall peremptorily challenge above the number of twenty perſons returned to be of the jury, ſhall be adjudged a felon, and ſhall ſuffer death as in caſe of felony, and ſhall not have the benefit of his, her, or their clergy. *(a)*

II. All and every perſon and perſons, that ſhall at any time, either in the night or the day, feloniouſly break any warehouſe or ſtorehouſe, and ſhall take therefrom any money, goods or chattels, wares or merchandiſes, of the value of four dollars or more, although the owner of ſuch goods, or any other perſon or perſons, be, or be not in ſuch warehouſe or ſtorehouſe, or ſhall aid, aſſiſt, counſel, hire, or command any perſon or perſons ſo to break and rob any ſuch warehouſe or ſtorehouſe, and ſhall be thereof convicted or attainted, or being thereof indicted, ſhall ſtand mute, or will not anſwer, directly to the indictment, or ſhall peremptorily challenge above the number of twenty perſons returned to be of the jury, ſhall by virtue of this act, be abſolutely debarred of, and from the benefit of clergy. *(b)*

III. If any principal offender ſhall be convicted of any felony, or ſhall ſtand mute, or peremptorily challenge above the number of twenty perſons returned to be of the jury, it ſhall and may be lawful to proceed againſt any acceſſary, either before or after the fact, in the ſame manner as if ſuch principal felon had been attainted thereof, notwithſtanding ſuch principal felon ſhall be admitted to the benefit of his clergy, pardoned, or otherwiſe delivered, before attainder; and every ſuch acceſſary ſhall ſuffer the ſame puniſhment, if he or ſhe be convicted, or ſhall ſtand mute, or peremptorily challenge above the number of twenty perſons returned to be of the jury, as he or ſhe ſhould have ſuffered if the principal had been attainted. *(c)*

IV. It ſhall and may be lawful to proſecute and puniſh every ſuch perſon and perſons buying or receiving any ſtolen goods, knowing the ſame to be ſtolen, as for a miſdemeanor, to be puniſhed by fine and impriſonment, although the principal felon be not before convicted of the ſaid felony, which ſhall exempt the offender from being puniſhed as acceſſary, if the principal ſhall be afterwards convicted. *(d)*

The repealing clauſe is as in the appendix No. 3.

ASSIGNEES OF OBLIGATIONS. *See Bills of Exchange, and Aſſignees of Obligations.*

ATTACHMENTS. *See Abſent Debtors, Abſent Defendants, Abſconding Debtors, and Attachments.*

ATTORNIES AT LAW.

November the 19th, 1792.

§ I. FOR preſcribing the mode of licenſing counſel and attornies at law, and regulating their practice, *Be it enacted*, That before any perſon ſhall be licenſed to practiſe as counſel or attorney at law, in any of the courts of this commonwealth, he ſhall produce to thoſe authoriſed hereby to grant licenſes, a certificate from the court of that county, where he hath uſually reſided for the laſt preceding twelve months, that he is a perſon of honeſt demeanor, and is upwards of twenty-one years of age; and three of the judges of the ſuperior courts upon ſuch certificates being produced to them, may, and they are hereby authoriſed and empowered, to grant to the perſon producing the ſame, a licenſe under

(a) 23. Hen. 8. c. 1. § 3. *(a)* 1730. c. 3. § 2. *(b)* 1730. c. 3. § 4. *(c)* 1730. c. 3. § 6. *(d)* 1730. c. 3. § 8.

their hands and ſeals, to practiſe the law in the ſuperior and inferior courts of this commonwealth, if after examination they ſhall be of opinion that he is duly qualified.

II. Every counſel and attorney before he ſhall be permitted to practiſe in any of the courts of this commonwealth, ſhall firſt produce his licenſe in each court where he intends to practiſe, and in the preſence of ſuch court ſhall give aſſurance of fidelity to the commonwealth, and ſhall morover take the following oath of office, to wit:

I, A. B. do ſolemnly ſwear, that I will honeſtly demean myſelf in the practice of the law, as counſel or attorney, and will in all reſpects execute my office, accorning to the beſt of my knowledge and abilities.

If any perſon ſhall preſume to practiſe as counſel or attorney in any of the ſaid courts without a licenſe firſt obtained as aforeſaid, or without qualifying himſelf in ſuch court in the manner before directed, he ſhall for every ſuch offence forfeit and pay the ſum of one hundred and fifty dollars for every cauſe he ſhall proſecute or defend in any of the ſaid courts; one moiety to the uſe of the informer, the other moiety to the uſe of the commonwealth, to be recovered by action of debt in any court of record.

III. Every perſon that hath already been, or ſhall hereafter be convicted of any felonious crime, ſhall be incapable of obtaining ſuch licenſe, or if licenſed, the judges of any court, in which ſuch perſon may practiſe, on proof thereof being made to them, may ſupercede his licenſe.

IV. If the judges of the general court, either in the general court or diſtrict courts, from their own obſervation, detect any mal-practice in either of the ſaid courts, in any counſel or attorney of thoſe courts, or either of them, or if a complaint in writing be made to them of ſuch mal-practice in the ſaid courts, or in the court of any county or corporation, the party accuſed ſhall be ſummoned to ſhew cauſe why an information ſhould not be filed againſt him. And if ſuch information ſhould be ordered, and the counſel or attorney thus offending, ſhould be found guitly of the matter therein charged, the ſaid judges either in the general court or diſtrict courts, as the caſe may happen, may either ſuſpend his licenſe, during a certain time, or vacate it altogether, as they ſhall judge moſt proper. The judges of the court of appeals, and of the high court of chancery, ſhall have the like power, over counſel and attorneys practiſing at the bars of their reſpective courts, and in caſe an information ſhould be directed by the judges of either of the ſaid courts, they may cauſe a jury to be impannelled to try ſuch information, in like manner as informations are tried in the general court, or in the diſtrict courts. *Provided always*, That nothing herein contained ſhall be conſtrued to hinder the juſtices of any county court, or other inferior courts, from cauſing any attorney practiſing in ſuch courts to find ſecurity for his good behaviour, or fining ſuch counſel or attornies for miſdemeanor, or contempts offered to them, in the ſame manner as if this act had never been made.

V. No counſel or attorney who ſhall proſecute any ſuit in an inferior court, in which an appeal may be prayed, ſhall be permitted to appear, or proſecute ſuch appeal in any ſuperior court, to which the ſame may be carried or removed; and any counſel or attorney who ſhall appear to, or proſecute ſuch appeal in any ſuperior court, ſhall forfeit the the ſum of ſixty dollars, to be recovered with coſts by action of debt in any court of record within this commonwealth. The whole penalty ſhall be appropriated to him, who will ſue for and recover the ſame.

VI. If any ſuit ſhall be diſmiſſed for the non-attendance of an attorney practiſing either in the ſuperior or inferior courts, not having a juſt and reaſonable excuſe, it ſhall be at his coſts, and he ſhall moreover be liable for all damages his client ſhall ſuſtain by ſuch diſmiſſion, or any other neglect of his duty, to be recovered in any court of record within this commonwealth.

VII. And every attorney receiving money for his client, and refuſing to pay the ſame when demanded, ſhall be proceeded againſt in a ſummary way, on notice before any court of record, in the ſame manner as ſheriffs are liable to be proceeded againſt for money received on executions.

VIII. In all caſes where the ſheriff is authoriſed by law to take the engagement of an

attorney indorſed upon the writ, that he ſuch attorney will appear for the defendant or defendants, every attorney thus entering into ſuch engagement, who ſhall fail to enter an appearance agreeable thereto, ſhall forfeit to the defendant or defendants eight dollars, for which judgment ſhall be immediately entered, and execution may iſſue thereon.

IX. The judges of the general court, or the diſtrict courts, and the juſtices of the county or other inferior courts, ſhall not ſuffer in ſuits hereafter to be commenced, more than two attornies to argue on any one ſide, except in criminal caſes, unleſs good cauſe be ſhewn for departing from this regulation.

X. If any attorney or other perſon practiſing as an attorney, ſhall preſume to appear under any power of attorney made before action brought, for confeſſing or ſuffering judgment to paſs by default or otherwiſe, for any defendant in any court of record within this commonwealth, ſuch attorney ſhall for every ſuch offence forfeit and pay fifteen hundred dollars to ſuch defendant, for his own uſe, to be recovered with coſts, by action of debt or information in any court of record, and moreover ſhall be liable to an action for damages at the ſuit of the party grieved.

XI. No juſtice of peace, ſheriff, under-ſheriff, or clerk of any county court, ſhall appear or plead as attorney for any perſon or perſons whatſoever, in the court of the county whereof he is a member, officer, or clerk, except only as general attorney for any perſon or perſons not reſiding or being within this commonwealth, under penalty of being fined by ſuch court in the ſum of thirty dollars for every ſuch offence, to the uſe of the ſame county towards leſſening the levy thereof. *(a)*

XII. The lawyers in this commonwealth ſhall not demand, nor directly or indirectly, or by any device, way or means whatſoever, take or receive before the ſuit or ſuits they are or ſhall be employed in, ſhall be finally determined, any greater or other fees or rewards for the following ſervices, than what are herein particularly mentioned and expreſſed, that is to ſay: Lawyers practiſing in the general court may demand and receive for an opinion or advice, where no ſuit is, or ſhall be brought and proſecuted or defended, by the attorney giving ſuch advice, but not otherwiſe, three dollars and fifty-eight cents, and in any ſuit other than where the title or bounds of land ſhall or may come in queſtion, eight dollars and thirty-three cents; in thoſe where the title or bounds of lands, ſhall or may come in queſtion, ſixteen dollars and ſixty-ſix cents; in any ſuit in chancery, the fee laſt mentioned; in any ſuit in a diſtrict court, where the title or bounds of land ſhall or may come in queſtion, five dollars; and in all other caſes two dollars and fifty cents, except in cauſes transferred from the general court, in which the fee ſhall be the ſame as in the general court. And lawyers practiſing in the county courts, or other inferior courts, for ſervices to be by them done in ſuch courts, may demand for an opinion or advice, where no ſuit is or ſhall be brought or proſecuted, or defended, by the attorney giving ſuch advice, but not otherwiſe, one dollar and ſixty-ſeven cents; and in any ſuit at common law, other than the actions hereafter mentioned, or by petition, two dollars and fifty cents; in all chancery ſuits, or real, mixed, or perſonal actions, where the title or bounds of lands, ſhall or may come in queſtion, five dollars, on a petition for a ſmall debt, one dollar and twenty-five cents; and any lawyer for attending a ſurvey in the country, for every day he ſhall attend, may demand three dollars and fifty eight cents, which laſt mentioned fee may be taxed in the bill of coſts. And every lawyer exacting, taking, receiving, or demanding, any greater fee, or other reward, for any of the above ſervices, before he has performed the ſaid ſervices, or finiſhed the ſaid ſuits, ſhall forfeit and pay one hundred and fifty dollars for every offence; one half to the governor for the time being, for the uſe of the commonwealth, and the other half to the informer, to be recovered by action of debt or information in any court of record within this commonwealth. *(b)*

XIII. No lawyer in any ſuit to be brought for his fees or ſervices, ſhall recover more than the fees above mentioned, notwithſtanding any agreement, contract, or obligation, made or entered into by the party againſt whom ſuch ſuit ſhall be brought. *(c)*

(a) 1748, c. 4. § 29. *(b)* 1761. c. 3. § 11. *(c)* 1761. c. 3. § 11.

XIV. The clerks of the high court of chancery and general court reſpectively, ſhall tax in the bill of coſts on all decrees obtained in the former, and on all judgments in the latter, in any action wherein the title or bounds of land ſhall or may come in queſtion, a fee of ſixteen dollars and ſixty-ſix cents, and in all other caſes in the ſaid laſt mentioned court, the clerk ſhall tax a fee of eight dollars and thirty-three cents, where the party obtaining ſuch decree or judgment employed a lawyer, except againſt executors or adminiſtrators, or where the plaintiff may not recover more coſts than damages; and the clerks of the reſpective diſtrict courts, and county courts, or other inferior courts, ſhall tax in the bill of coſts in all judgments in any action where the title or bounds of land ſhall or may come in qneſtion, and on all decrees in chancery, either when the plaintiff ſhall recover or be non-ſuited, or where his ſuit ſhall be diſmiſſed, five dollars; and in all other actions or ſuits, except ſuch as are brought by petition in the county or other inferior courts, two dollars and fifty cents, for an attorney's fee, if the party employed one, except againſt executors or adminiſtrators, or where the plaintiff may not recover more coſts than damages; and except alſo ſuch ſuits as have been transferred from the general court to the diſtrict courts, in which laſt mentioned ſuits the ſame fees ſhall be taxed as if they had been determined in the general court. And in all ſuits by petition, the clerks of the ſaid county courts, and other inferior courts, ſhall tax in the bill of coſts, where an attorney ſhall be employed, one dollar and twenty-five cents as an attorney's fee, againſt the party who ſhall be caſt, except againſt executors or adminiſtrators

The repealing clauſe is as in the appendix No. 3.

AUDITOR AND TREASURER.

December the 15th, 1792.

§ I. THERE ſhall be one Auditor for public accounts, to be choſen from time to time as a vacancy may happen, by joint ballot of both houſes of aſſembly, and to continue in office until removed by the joint vote of both the ſaid houſes, or by the executive during the receſs of the aſſembly. And where any perſon ſo appointed, ſhall refuſe to act, ſhall reſign, or die during the receſs of aſſembly, it ſhall be lawful for the governor, with the advice of the council of ſtate, to appoint ſome other fit and able perſon to act in his ſtead, until the next meeting of the general aſſembly. The auditor ſo appointed, ſhall not be capable of acting until he ſhall have taken the oath of fidelity to the commonwealth, and alſo an oath, impartially and honeſtly to execute the duties of his office; which oath ſhall be taken before the judge of the high court of chancery, or either of the judges of the general court, and by him ſhall be certified to his next ſucceeding court, and entered of record. The auditor now in office by former appointed, is hereby continued therein.

II. It ſhall be the duty of the auditor, aſſiſted by ſo many clerks as the executive may think neceſſary, to examine, ſtate, ſettle, and audit all accounts, claims or demands whatſoever, againſt the public, ariſing under any law or reſolution of the general aſſembly; and to grant to every public claimant, authoriſed by law to demand the ſame, a warrant on the treaſurer, for the ſum due, ſigned with his own hand and name, and atteſted in the hand and name of one of his clerks, making due entry and regiſter of all his daily proceedings in books for that purpoſe, and carefully arranging, filing and preſerving in his office, all accounts, receipts, vouchers, and papers, touching the ſame. The auditor on the laſt day of September, in every year, ſhall transfer the balances to a new account, to be annually opened by him on the firſt day of October. There ſhall alſo be an account ſtated againſt the treaſurer of the commonwealth.

III. It ſhall be the duty of the auditor, to call upon and proceed againſt all public debtors. for the balances due to the public.

IV. It ſhall and may be lawful for the auditor on behalf of the commonwealth, to move for judgments on any day during the ſitting of the general court, againſt any perſon or per-

ſons indebted to the public, and againſt any perſon or perſons indebted to the public by duty bonds, in the general court, or county court of Henrico, on giving ten days previous notice thereof, and thereupon to iſſue executions, and ſend the ſame to the proper officer; the charges of giving which notice, being firſt paid by the public, ſhall be recovered of the perſon againſt whom ſuch execution iſſued, in the ſame court, and in the ſame manner, as debts due to the public are allowed to be recovered; and on ſuch executions, the clerk ſhall endorſe, "No ſecurity to be taken."

V. Any perſon hereafter appointed auditor, ſhall give bond with ſuch ſecurity as ſhall be approved by the governor, with the advice of council, in the ſum of thirty thouſand dollars, payable to the ſaid governor, or his ſucceſſors, in truſt, for the uſe of the commonwealth, conditioned for the faithful diſcharge of the duties of his office; which bond ſhall be recorded in the general court.

VI. Where the auditor acting according to his direction and judgment, ſhall diſallow, or abate any article of demand againſt the commonwealth, and any perſon ſhall think himſelf aggrieved thereby, he ſhall be at liberty to petition the high court of chancery, or the diſtrict court, holden at the city of Richmond, according to the nature of his caſe, for redreſs, and ſuch courts ſhall proceed to do right thereon; and a like petition ſhall be allowed in all other caſes, to any other perſon who is entitled to demand againſt the commonwealth, any right in law or equity.

VII. The chief clerk of the auditor, ſhall, in caſe of the ſickneſs of the auditor, perform the duties of his office.

VIII. The public treaſurer may continue in office without re-election, until the end of the ſeſſion of general aſſembly, next after one year from the time of his appointment ſhall have expired. On his firſt election, before he ſhall have power to act, he ſhall give bond to the governor, with ſecurities, to be approved by the council of ſtate, in the penalty of one million of dollars, payable to the commonwealth, with condition, that he will faithfully account for all monies and other things which ſhall come to his hands in virtue of his office, and perform all other duties thereof; and ſhall take an oath to the ſame purpoſe, and give aſſurance of fidelity to the commonwealth, before ſome court of record, or before a judge or juſtice thereof; the adminiſtration of which oaths, or the certificate thereof, ſhall be recorded in ſuch court.

IX. When the office ſhall become vacant, during the receſs of the general aſſembly, the governor, with the advice of the council of ſtate, ſhall apppoint a ſucceſſor to act, until ſuch time as he, or another ſhall be legally elected.

X. Upon a motion made to the general court, by a ſucceeding treaſurer, on behalf of the commonwealth, whereof more than ten days notice in writing ſhall have been given to the obligors, judgment may be awarded for the penalty of the ſaid bonds, to be diſcharged by payment of ſo much, as a jury, to be impannelled inſtantly, for trial of the iſſue, if an iſſue be joined, or to enquire of damages, if the defendants make default, ſhall find to be due by breach of the condition aforeſaid, with coſts.

XI. The treaſurer, in books provided at the public expenſe, ſhall ſtate the accounts of money by him received for public taxes, and impoſitions, and paid in purſuance of acts and votes of the general aſſembly, in ſuch a manner as that the nett produce of the whole revenue, as well as of every branch thereof, and the amount of diſburſements, in diſcharge of the ſeveral demands, may diſtinctly appear, and lay the ſaid accounts from time to time, and all his other tranſactions, before the general aſſembly: And if he divert or miſapply any of the public treaſure, being convicted thereof, upon ſuch proſecution as is before preſcribed, he ſhall not only be adjudged to pay double the money ſo found to have been diverted or miſapplied, to the uſe of the commonwealth, but ſhall thereby be rendered incapable of any office of public truſt.

XII. The treaſurer ſhall be allowed as many clerks as the executive ſhall judge neceſſary.

XIII. It ſhall not be lawful for the treaſurer to pay or receive any money on account of the public, but on warrant or certificate from the auditor, unleſs in caſes where any fu-

ture act of aſſembly ſhall in expreſs words, and not by inference or implication only, declare that in that particular caſe it is to be underſtood as the intention, that the claim ſpecified by ſuch act, ſhall not be audited in the regular courſe, ſave only, that the ſalary of the ſaid auditor, together with the accounts for the expenſes of the office for fuel, blank books, paper, preſſes for the preſervation of the books and papers, and other implements neceſſary for the uſe of the office, ſhall be examined and certified for payment to the treaſurer by the governor and council.

XIV. The executive ſhall have the controul and ſuperintendance of the auditor's and treaſurer's offices reſpectively, as the ſame are now eſtabliſhed by this act, with power to remove the auditor for miſbehaviour or neglect of duty, and to ſupply any vacancy in the ſaid office, during the receſs of aſſembly, ſubject to their appropation. A committee of the executive to be by them appointed, ſhall alſo have power, and is required, that proper checks may be provided, to viſit and examine the ſaid offices once in three months at leaſt, or oftener, and ſhall report to the governor in writing, under their hands, the ſituation of the ſame, the ſtate of the books and papers to the ſaid offices belonging, and what charges or additions ſhall in their judgment be proper for conducting the buſineſs; which report ſhall be by him laid before the board, and entered in their proceedings; and thereupon it ſhall be lawful for the executive to direct ſuch correſpondent changes in the buſineſs of the ſaid offices, as they ſhall deem neceſſary for the better conducting the ſame.

XV. All inſtructions by the executive in purſuance of the powers hereby veſted in them, ſhall be executed, any law to the contrary notwithſtanding.

XVI. The treaſurer for the time being ſhall have a right to vote according to the number of ſhares which this commonwealth holds in Patowmack, James river, and Diſmal ſwamp canal companies, in perſon, or by proxy, appointed by him, at the meetings of the ſaid companies, and ſhall receive the proportion of the tolls which ſhall from time to time become due to this ſtate, from the ſhares aforeſaid.

The repealing clauſe is as in the appendix No. 4.

AWARDS.

December the 17th, 1789.

§ I. IT ſhall and may be lawful for all merchants and traders, and others deſiring to end any controverſy, ſuit or quarrel, for which there is no other remedy but by perſonal action or ſuit in equity, by arbitration, to agree, that their ſubmiſſion of the ſuit to the award or umpirage of any perſon or perſons ſhould be made a rule of any court of record which the parties ſhall chooſe, and to inſert ſuch their agreement in their ſubmiſſion or the condition of the bond or promiſe, whereby they oblige themſelves, reſpectively, to ſubmit to the award or umpirage of any perſon or perſons; which agreement being ſo made and inſerted in their ſubmiſſion or promiſe, or condition of their reſpective bonds, ſhall or may, upon producing an affidavit thereof made by the witneſſes thereunto, or any one of them, in the court of which the ſame is agreed to be made a rule, and reading and filing the ſaid affidavit in court, be entered in the proceedings of ſuch court, and a rule ſhall be made thereupon by the ſaid court, that the parties ſhall ſubmit to and finally be concluded by the arbitration or umpirage, which ſhall be made concerning them by the arbitration or umpire purſuant to ſuch ſubmiſſion. *(a)*

II. And the award made in purſuance of ſuch ſubmiſſion may be entered up as the judgment or decree of the court, and the ſame execution or proceſs may iſſue thereupon as on other judgments or decrees, and the court ſhall not invalidate ſuch award, arbitrament, or umpirage, unleſs it be made appear to ſuch court, that ſuch award, arbitrament, or umpirage was procured by corruption or other undue means, or that there was evident partiality or miſbehaviour in the arbitrators or umpires, or any of them. And any award,

(a) 9 and 10. Will. 3. c. 15.

arbitrament, or umpirage procured by corruption or other undue means, or where there ſhall have been ſuch evident partiality or miſbehaviour as aforeſaid, ſhall be deemed and judged void and of none effect, and accordingly ſet aſide by the court in which the ſubmiſſion ſhall be made, ſo as complaint of ſuch corruption or undue means, or evident partiality or miſbehaviour as aforeſaid, be made before the end of the ſecond court of quarter ſeſſions in the caſe of a county court, or at the end of the ſecond term of any other court next after ſuch award, arbitrament, or umpirage be made and returned to ſuch court.

III. *Provided nevertheleſs*, That nothing herein contained, ſhall be conſtrued to take away from courts of equity their power over awards, arbitraments, or umpirages.

BAIL. See alſo Criminals, Crimes, Offences and Proſecutions.

December the 5th, 1785—but commenced in force January 1, 1787.

§ I. FOR aſcertaining in what caſes perſons apprehended on ſuſpicion of felony ſhall or ſhall not be admitted to bail: *Be it enacted*, That thoſe ſhall be let to bail who are apprehended for any crime not puniſhable in life or limb: And if the crime be ſo puniſhable, but only a light ſuſpicion of guilt fall on the party, he ſhall in like manner be bailable: But if the crime be puniſhable in life or limb, or if it be man-ſlaughter, and there be good cauſe to believe the party guilty thereof, he ſhall not be admitted to bail.

II. No perſon ſhall be bailed after conviction of any felony.

III. If any juſtice let any go at large on bail who is not bailable, or refuſe to admit to bail any who have right to be ſo admitted, after they ſhall have offered ſufficient bail, or require exceſſive bail, he ſhall be amerced at the diſcretion of a jury.

BALLAST, DEAD BODIES, SICK AND DISABLED SEAMEN AND SERVANTS.

December the 23d, 1792.

§ I. THE court of every county or corporation adjacent to any navigable river or creek, ſhall from time to time as vacancies happen, appoint one or more ballaſt maſters, reſiding near the places where veſſels uſually ride in ſuch river or creek, to be overſeers and directors of the delivery and unloading of ballaſt from on board any ſhip or veſſel, within a certain diſtrict to be by them aſcertained.

II. Every perſon ſo appointed, ſhall make oath in open court, that he will when required, diligently attend the delivery of ballaſt from on board any veſſel within his diſtrict, and will not knowingly permit the ſame, or any part thereof, to be caſt into the water where navigable, but will direct, and to the beſt of his power, cauſe all ſuch ballaſt to be brought and laid on ſhore at ſome convenient place or places, where it may not obſtruct navigation, nor be waſhed into the channel; and, that he will truly and faithfully execute his office, without favor, partiality, or malice.

III. If any perſon ſo appointed, and having notice thereof by an atteſted copy of ſuch appointment, iſſued by the clerk, and ſerved by the ſheriff or other officer, which notice the clerk is hereby directed immediately to iſſue, and the ſheriff or other officer to ſerve, and thereupon make due return to the next court, ſhall fail to appear before the ſaid court, unleſs hindered by ſickneſs or other legal diſability, or being there, ſhall refuſe to be ſworn, he ſhall be fined ſixty dollars; and the court ſhall upon every ſuch failure or refuſal, or in caſe of death, removal, or other legal diſability of any perſon ſo appointed, proceed to appoint another in his room.

IV. Every ballaſt maſter ſo appointed, upon receiving notice from the maſter or chief officer on board of any ſhip or veſſel within his diſtrict, that ballaſt is to be diſcharged from

ſuch veſſel ſhall go on board the ſame, and attend until the whole ballaſt is delivered, which he ſhall ſee brought on ſhore, and laid at ſome convenient place near the veſſel where it may not obſtruct navigation, nor be waſhed into the channel, ſhall thereupon give ſuch maſter or officer, a certificate that the ballaſt has been duly unladen from on board ſuch ſhip or veſſel, and ſhall receive from him for the ſervices ſo performed, eighty-three cents per day.

V. Every ballaſt maſter failing to do his duty according to this act, ſhall forfeit ſixty dollars for each default.

VI. Every maſter or chief officer of any ſhip or veſſel having ballaſt to unlade, ſhall give notice in writing, of the time he propoſes to land the ſame, to the ballaſt maſter of the diſtrict; and if he ſhall preſume to land or caſt overboard any ballaſt therefrom, without giving ſuch notice, or contrary to the orders he ſhall receive from the ballaſt maſter of the diſtrict, he ſhall forfeit one hundred and fifty dollars for every ſuch offence or failure.

VII. When any perſon ſhall die on board of any ſhip or veſſel within this commonwealth, the maſter thereof ſhall cauſe the dead body to be brought on ſhore, and there buried, at leaſt four feet deep above high-water mark, or be ſubject to the like penalty of one hundred and fifty dollars.

VIII. If any ſuit be brought for the penalties in this act before contained, the defendant may be ruled to give ſpecial bail, and the clerk ſhall endorſe on the writ, that bail is required.

IX. If any maſter or commander of any ſhip or veſſel, ſhall diſcharge, or cauſe to be put on ſhore, any ſick or diſabled ſailor or ſailors, belonging to his ſhip or veſſel, not entitled to his or their diſcharge by the contract between them, or any ſervant, without taking due care for his or their maintenance and cure, he ſhall forfeit and pay ſixty dollars to the overſeers of the poor of the county or corporation wherein ſuch ſailor or ſailors, or ſervant, ſhall be put on ſhore, to be recovered with coſts, by action of debt or information, in any county or corporation court, and applied towards leſſening the poor rates of the county or corporation; and he ſhall alſo be liable to the action of the overſeers of the poor of that or any other county or corporation wherein ſuch ſailor or ſailors, or ſervant, ſhall become chargeable, for all expenſes of maintenance and cure; and in any ſuch action or actions, the defendant may be ruled to give ſpecial bail, and the clerk ſhall endorſe on the writ, that good bail is required: *Provided*, That the ſaid overſeers of the poor, or either of them, ſhall make affidavit of the cauſe of action, before a magiſtrate, which ſhall be certified to the clerk of the court who ſhall iſſue the writ.

The repealing clauſe is as in the appendix No. 3.

BANK NOTES PRIVATE.

December the 2d, 1785—but commenced in force January 1, 1787; and had been previouſly enacted.

IT ſhall not be lawful for any perſon to offer in payment, a private bank bill or note for money, payable to bearer; and whoſoever ſhall offend herein, ſhall not only forfeit to the informer ten times the value of the ſum mentioned in ſuch bill or note, but may be apprehended by warrant of a juſtice, and, upon due proof of the fact made to him, or upon his own acknowledgment thereof, be bound to the good behaviour, or if he afterwards offend in the like manner, it ſhall be deemed a breach of the condition of the recognizance.

BEEF. See Pork, Beef, Tar, Pitch and Turpentine.

BENEFIT OF CLERGY. *See alſo Arſon, Benefit of Clergy, Acceſſaries to Felonies, and Receivers of Stolen Goods.*

November the 27th, 1789.

§ 1. THE benefit of clergy ſhall not be allowed to principals in the firſt degree—Firſt, in murder; ſecondly, or in burglary; thirdly, or in arſon at common law; fourthly, or for the wilful burning of any courthouſe, or county or public priſon, or of the office of the clerk or any court within this commonwealth; fifthly, or for the felonious taking of any goods or chattels out of any church, chapel, or meeting houſe belonging thereto; ſixthly, or for the robbing of any perſon or perſons in their dwelling-houſes or dwelling-place, the owner or dweller in the ſame houſe or dwelling place, his wife, his children, or ſervants, then being within, and put in fear and dread by the ſame; ſeventhly, or for the robbing of any perſon or perſons in or near about any highway, eighthly, or for the felonious ſtealing of any horſe, gelding, or mare; ninthly, or for the felonious breaking of any dwelling-houſe by day, and taking away of any goods or chattels being in any dwelling-houſe, the owner or any perſon being therein and put in fear.

II. The benefit of clergy ſhall not be allowed to principals in the ſecond degree, in any of the caſes abovementioned.

III. It ſhall not be allowed to acceſſaries before the fact, in the firſt degree, in murder; ſecondly, or burglary; thirdly, or arſon at common law; fourthly, or for the wilful burning of any court-houſe, or county, or public priſon, or of the office of the clerk of any county within this commonwealth; fifthly, or for the robbing of any perſon or perſons in their dwelling-houſes or dwelling-places, the owner or dweller in the ſame dwelling-houſe or dwelling-place, his wife, his children or ſervants then being within and put in fear and dread by the ſame; ſixthly, or for the robbing of any perſon or perſons in or near about any highway.

IV. It ſhall be allowed to principals and acceſſaries in all offences which would otherwiſe be without clergy, whether the ſame be newly created by any act of the general aſſembly, or exiſt under the common law, unleſs it be taken away by the expreſs words of ſome act of aſſembly.

V. It ſhall not be allowed to any perſon more than once, except in the following caſe, that is to ſay: Whenſoever any perſon ſhall have been admitted to the benefit of clergy, ſuch admiſſion ſhall not operate as a pardon or diſcharge for other offences of a clergyable nature, committed by him before that admiſſion to the benefit of clergy, but he ſhall be again allowed the benefit of clergy for every other offence of a clergyable nature committed by him before that admiſſion to the benefit of clergy, and ſhall be burned in the hand for every ſuch offence.

VI. But if any perſon who ſhall have been once admitted to the benefit of clergy, ſhall before that admiſſion have committed any offence, in which the benefit of clergy is not allowed by law, or ſhall after that admiſſion commit any offence in which the benefit of clergy is even allowed by law, he ſhall ſuffer death without the benefit of clergy.

VII. A female ſhall in all caſes receive the ſame judgment, and ſtand in the ſame condition with reſpect to the benefit of clergy, as a male.

VIII. A ſlave ſhall in all caſes receive the ſame judgment, and ſtand in the ſame condition, with reſpect to the benefit of clergy, as a free negro or mulatto.

IX. Nothing in this act contained, ſhall be conſtrued to take away the benefit of clergy, from any offence, in which it is now allowed by any act of the general aſſembly, or to allow it in any offence, from which it is now expreſſly taken away, by any act of the general aſſembly.

BIGAMY. *See Marriages.*

BILLS OF EXCEPTIONS.

November the 18th, 1789.

WHEN one impleaded before any court, and in any cauſe, where appeal, writ of error, or ſuperſedeas lies to a higher court, doth alledge an exception, praying that the juſtices will allow it, if they will not allow it, and he that alledgeth the exception, do write the ſame exception, and require that the juſtices will put their ſeals in teſtimony thereof, the juſtices, or the greater part of them preſent ſhall ſo do; and if ſuch higher court upon complaint made of the ſaid juſtices, cauſe the record to come before them, and the ſame exception be not found in the roll, and the plaintiff ſhew the exception written, with the ſeals of the juſtices put to it, the juſtices ſhall be commanded, that they appear at a certain day, either to confeſs or deny their ſeals; and if the juſtices cannot deny their ſeals, they ſhall proceed to judgment according to the ſame exception, as it ought to be allowed or diſallowed *(a)*

BILLS OF EXCHANGE AND ASSIGNEES OF OBLIGATIONS.

December the 4th, 1786—but commenced in force July 1, 1796.

§ I. IF a bill of exchange, for the ſum of five pounds, or upwards, dated at any place in Virginia, drawn upon a perſon at any other place therein, expreſſed to be for value received, and payable at a certain number of days, weeks, or months after date, being preſented to the perſon, upon whom it ſhall be drawn, ſhall not be accepted by ſubſcribing his name, with his proper hand to the acceptance, written at the foot, or on the back of the bill, or being accepted in that manner, and not otherwiſe, ſhall not be paid before the expiration of three days after it ſhall become due, the perſon to whom it ſhall be payable, or his agent, or aſſigns, may cauſe the bill to be proteſted by a notary public, or if there be no ſuch, by any other perſon in preſence of two or more credible witneſſes, for non acceptance in the form or to the effect following, written under a fair copy of the bill:

KNOW all men, that I, , on the day of , at the uſual place of abode of the above named , preſented to him the bill, of which the above is a copy, and which the ſaid did not accept, wherefore I, the ſaid , do hereby proteſt the ſaid bill. Dated at , this day of ;"

Or for non-payment after acceptance, in the ſame form or to the ſame effect, except that the words "preſented to him the bill, of which the above is a copy, and which the ſaid did not accept," ſhall be left out, and inſtead of them, the words "demanded payment of the bill, of which the above is a copy, and which the ſaid did not pay," be inſerted: And the drawer, ſuch proteſt being ſent to him, or notice thereof in writing being given to him, or left at the place of his uſual abode, within fourteen days thereafter, ſhall pay the money mentioned in the bill to the perſon entitled to it, with intereſt, at the rate of five per centum by the year, from the day of the proteſt; and he, to whom the bill ſhall be payable, neglecting to procure the proteſt to be made, or due notice thereof to be given, ſhall be liable for all coſts and damages accruing thereby.

II. If the bill ſhall be loſt, or ſhall miſcarry, the drawer ſhall ſign and deliver another of the ſame tenor, ſufficient ſecurity being given to indemnify him againſt all perſons who may claim under the former.

III. An action of debt may be maintained upon a note or writing, by which the perſon ſigning the ſame, ſhall promiſe or oblige himſelf to pay a ſum of money or quantity of tobacco to another.

(a) 13. Edw. 1, c. 31.

IV. Aſſignments of bonds, bills, and promiſſory notes, and other writings obligatory, for payment of money or tobacco, ſhall be valid; and an aſſignee of any ſuch, may thereupon maintain an action of debt, in his own name, but ſhall allow all juſt diſcounts, not only againſt himſelf, but againſt the aſſignor, before notice of the aſſignment was given to the defendant.

November the 12th, 1792.

§ I. WHEREAS bills of exchange are accounted in all payments as ready money, and it is expedient for the advancement of trade and commerce, that the credit of ſuch bills ſhould be preſerved by making the ſame a ſufficient ſecurity, and expediting the recovery of money thereupon:

II. Where any bill of exchange is or ſhall be drawn for the payment of any ſum of money, in which the value is or ſhall be expreſſed to be received, and ſuch bill is or ſhall be proteſted for non acceptance or non-payment, the drawer or indorſer ſhall be ſubject to the payment of fifteen per centum damages thereon, and the bill ſhall carry an intereſt of five per centum per annum from the date of the proteſt, until the money therein drawn for, ſhall be fully ſatisfied and paid.

III. It ſhall be lawful for any perſon or perſons, having a right to demand any ſum of money upon a proteſted bill of exchange, to commence and proſecute an action of debt for principal, damages, intereſt and charges of proteſt, againſt the drawers or indorſers jointly, or againſt either of them ſeparately; and judgment ſhall and may be given for ſuch principal, damages and charges, and intereſt upon ſuch principal, after the rate aforeſaid to the time of ſuch judgment, and for intereſt upon the ſaid principal money, recovered after the rate of five per centum per annum, until the ſame ſhall be fully ſatisfied.

IV. In all bills of exchange given for any debt due in current money of this commonwealth, or for current money advanced and paid for ſuch bills, the ſum in current money that was paid, or allowed for the ſame, ſhall be mentioned and expreſſed in ſuch bill, and in default thereof, in caſe ſuch bill ſhall be proteſted, and a ſuit brought for the recovery of the money due thereby, the ſum of money expreſſed in ſuch bill, ſhall be held and taken as current money, and judgment ſhall be entered accordingly; and if any perſon ſo receiving or purchaſing a bill of exchange, ſhall expreſs, or cauſe to be expreſſed therein, any other than the true ſum in current money allowed for the ſame, every ſuch perſon ſo offending, ſhall forfeit and pay to the perſon drawing ſuch bill, the whole ſum of money for which ſuch bill ſhall be drawn, to be recovered with coſts by action of debt, in any court of record within this commonwealth, wherein the ſame ſhall be cognizable.

V. And that people may not be injured for want of due proof of the rate of exchange ſo given or allowed for ſuch bills, where the ſame is not truly expreſſed therein, ſuch bills being uſually negotiated in ſecret, and with ſuch caution that it can ſeldom be detected in the ordinary courſe of evidence: *Be it further enacted*, That it ſhall and may be lawful for any drawer of ſuch bill of exchange, to exhibit a bill in chancery, in any court of record in this commonwealth, having chancery juriſdiction, againſt the perſon to whom ſuch bill ſhall be payable, to compel him to diſcover upon his corporal oath, the true difference of exchange given or allowed for ſuch bill, and in that caſe if it ſhall appear that a leſs rate of exchange was given or allowed than is expreſſed, the drawee of ſuch bill ſhall be diſcharged from the penalty herein before inflicted for the ſame, but ſhall be decreed to pay to the drawer, ſo much money as the rate of exchange allowed, ſhall be leſs than the rate of exchange expreſſed, together with the damages of fifteen per centum thereon, and coſts of ſuit, to the time of ſuch decree.

VI. In any action which hath been or ſhall be commenced, and is or ſhall be depending for the recovery of any ſterling money, in any court of record within this commonwealth, wherein the plaintiff or plaintiffs ſhall recover, ſuch court ſhall have power, and are hereby directed by rule to be entered at the foot of their judgment in ſuch action, to order ſuch judgment to be diſcharged or levied in current money, at ſuch a difference of exchange as they ſhall think juſt; any law, uſage, or cuſtom, to the contrary in any wiſe, notwithſtanding.

VII. If any perſon ſhall in any ſuit hereafter to be brought, declare for ſterling money, except where the debt or duty is payable in ſterling, the plaintiff in every ſuch ſuit ſhall be non-ſuited; and if any perſon ſhall after the paſſing of this act, take a bond, obligation, or note payable in ſterling for any current money debt, and ſhall bring ſuit thereon, the court before whom ſuch ſuit ſhall be tried, upon proof being made thereof, ſhall order the judgment to be diſcharged or levied in current money, at the rate of thirty-three and one third per centum.

The repealing clauſe is as in the appendix No. 5.

December the 28th, 1795—but commenced in force March the 1ſt, 1796.

§ I. ALL bills of exchange, or drafts for money in the nature of bills of exchange, drawn by any perſon or perſons reſiding in this ſtate, on any perſon or perſons in the United States, ſhall be conſidered in all caſes whatſoever as inland bills of exchange; and if ſuch bill of exchange or draft ſhall be proteſted for non-acceptance or non-payment, the drawer or indorſer ſhall be ſubject to the payment of one per centum damages thereon, and the bill of exchange or draft ſhall carry an intereſt of five per centum per annum from the date of the proteſt, until the money therein drawn for, ſhall be fully ſatisfied and paid; any thing in any law to the contrary notwithſtanding.

II. A ſuit may be maintained in the name of an aſſignee or aſſignees on any bond, bill, or obligation, whatever, in like manner as ſuch ſuit may be maintained by the aſſignee or aſſignees of a bond, bill, or obligation for the payment of money or tobacco.

BREAD. *See Flour and Bread.*

BREED OF HORSES. *See Horſes.*

BRITISH STATUTES.

December the 27th, 1792.

§ I. WHEREAS by an ordinance of convention, paſſed in the month of May, in the year of our lord, one thouſand ſeven hundred and ſeventy-ſix, intituled, "An ordinance to enable the preſent magiſtrates and officers to continue the adminiſtration of juſtice, and for ſettling the general mode of proceedings in criminal and other caſes, 'till the ſame can be more amply provided for," it is among other things ordained, "That the common law of England, all ſtatutes or acts of parliament made in aid of the common law prior to the fourth year of the reign of king James the firſt, and which are of a general nature, not local to that kingdom, together with the ſeveral acts of the general aſſembly of this colony now in force, ſo far as the ſame may conſiſt with the ſeveral ordinances, declarations, and reſolutions of the general convention, ſhall be the rule of deciſion, and ſhall be conſidered in full force, until the ſame ſhall be altered by the legiſlative power of this colony."

II. And whereas the good people of this commonwealth may be enſnared by an ignorance of acts of parliament, which have never been publiſhed in any collection of the laws, and it hath been thought adviſeable by the general aſſembly, during their preſent ſeſſion, ſpecially to enact ſuch of the ſaid ſtatutes as to them appear worthy of adoption, and do not already make a part of the public code of the laws of Virginia.

III. So much of the above recited ordinance as relates to any ſtatute or act of parliament, ſhall be, and is hereby repealed; and that no ſuch ſtatue or act of parliament ſhall have any force or authority within this commonwealth.

IV. *Provided always*, That all rights ariſing under any ſuch ſtatute or act, and all crimes and offences committed againſt the ſame, at any time before the commencement of this act, ſhall remain in the ſame condition in all reſpects, as if this act had never been made.

V. Saving moreover to this commonwealth, and to all and every perſon and perſons, bodies politic and corporate, and each and every of them, the right and benefit of all and every writ and writs, remedial and judicial, which might have been legally obtained from or ſued out of any court or juriſdiction of this commonwealth, or the office of the clerk of any ſuch court or juriſdiction, before the commencement of this act, in like manner, with the like proceedings thereupon to be had, as fully and amply, to all intents, conſtructions and purpoſes, as if this act had never been made; any thing herein contained, to the contrary, or ſeeming to the contrary, notwithſtanding.

BRIBERY AND EXTORTION.

October the 19th, 1792.

§ I. NO treaſurer, keeper of any public ſeal, councillor of ſtate, counſel for the commonwealth, judge, clerk of the peace, ſheriff, coroner, eſcheater, nor any other officer of the commonwealth, ſhall in time to come, take in any form, any manner of brokeage or reward for doing his office, other than is or ſhall be allowed by law. And he that doth, ſhall pay unto the party grieved, the treble value of that he hath received, ſhall be amerced and impriſoned at the diſcretion of a jury, and ſhall be diſcharged from his office forever. And he who will ſue in the ſaid matter, ſhall have ſuit as well for the commonwealth as for himſelf, and the third part of the amercement. *(a)*

II. Any perſon hereafter to be elected to ſerve in the general aſſembly, who ſhall directly or indirectly give or agree to give to any elector or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected for any county, city or borough, or for any diſtrict, ſhall be expelled, and be diſabled from being elected a member to either houſe of the general aſſembly, during the term of three years. *(b)*

III. Any condidate or other perſon in his behalf, who ſhall directly or indirectly give or agree to give any elector or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected a repreſentative of this commonwealth in congreſs, ſhall forfeit and pay fifteen hundred dollars, for each offence, to be recovered with coſts, by action of debt, to the uſe of any perſon who will ſue for the ſame. *(c)*

IV. All and every act and acts, clauſes and part of acts, containing any thing within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided*, That any act of bribery or extortion committed or done before the commencement of this act, may be proſecuted in the ſame manner as if this act had never been made.

BUGGERY.

December the 10th, 1792.

IF any do commit the deteſtable and abominable vice of buggery, with man or beaſt, he or ſhe ſo offending, ſhall be adjudged a felon, and ſhall ſuffer death, as in caſe of felony, without the benefit clergy. *(d)*

(a) 1788. c. 83. *(b)* 1785. c. 55. § 10. *(c)* 1788. c. 1. § 8. & c. 2. § 4. *(d)* 25. Hen. 8. c. 6.

BUYING AND SELLING OF OFFICES. *See Offices.*

CHAMPERTY.

December the 8th, 1792.

CHAMPERTORS be they that move pleas and ſuits, and cauſe them to be moved, by their own procurement or by others, and ſue them at their own proper coſts and charges, to have a part of the land in variance, or part of the gains; and thoſe who are convicted thereof by the verdict of a jury, ſhall be puniſhed, by impriſonment and amercement, at the diſcretion of the jury before whom they ſhall have been found guilty, and ſuch amercement and impriſonment ſhall be aſcertained at the time of ſuch conviction. *(a)*

CHANCERY. *See Courts.*

CITIZENS AND CITIZENSHIP.

December the 23d, 1792.

§ I. ALL free perſons born within the territory of this commonwealth, all perſons not being natives, who have obtained a right to citizenſhip under former laws, and alſo all children wheresoever born, whoſe fathers or mothers are or were citizens at the time of the birth of ſuch children, ſhall be deemed citizens of this commonwealth, until they relinquiſh that character in manner herein after mentioned. *(b)*

II. And that all perſons, other than alien enemies, who ſhall migrate into this ſtate, and ſhall before ſome court of record give ſatisfactory proof by oath, or being quakers or menonniſts, by affirmation, that they intend to reſide therein, and alſo take the legal oath or affirmation for giving aſſurance of fidelity to the commonwealth, (which oaths or affirmations the clerk of the court ſhall enter of record, and give a certificate thereof to the perſon taking the ſame, and ſhall on or before the firſt day of October annually, tranſmit to the executive a liſt of the perſons who ſhall have taken the ſaid oaths or affirmations, reciting their nation and occupation, (if any) to be by them entered in a book to be kept for that purpoſe, for which he ſhall receive the fee of one dollar) ſhall be entitled to all the rights, privileges and advantages of citizens, except that they ſhall not be capable of election or appointment to any office, legiſlative, executive, or judiciary, until an actual reſidence in the ſtate for five years after the time of taking ſuch oaths or affirmations aforeſaid; nor until they ſhall have evinced a permanent attachment to the ſtate, by having intermarried with a citizen of this commonwealth, or a citizen of any other of the United States, or purchaſed lands of the value of three hundred dollars therein.

III. *Provided always*, That no perſon having or holding any place or penſion from any foreign ſtate or potentate, ſhall be eligible to any office, legiſlative, executive, or judiciary, within this commonwealth.

IV. And for the encouragement of uſeful artizans, mechanics, and handicraft tradeſmen, to migrate into this commonwealth, *Be it further enacted*, That all and every ſuch perſon or perſons laſt mentioned, who ſhall hereafter migrate to this commonwealth, ſhall be wholly exempt from the payment of any tax on his or their tools, or implements of trade, which he or they ſhall bring into this commonwealth, at the time of his or their migration thereto; and ſhall moreover be exempted from all taxes whatſoever except the land

(a) 33. Edw. I. Stat. 2 & 3. *(b)* 1786. c. 10. which had been taken in part from a law in May, 1779.

V. Whenſoever any citizen of this commonwealth, ſhall, by deed in writing, under his hand and ſeal, executed in the preſence of, and ſubſcribed by three witneſſes, and tax, for the ſpace of five years next thereafter, and if he or they ſhall ſo long continue the actual exerciſe of his or their trade or occupation therein.
by them, or two of them proved in the general court, any diſtrict court, or the court of the county or corporation where he reſides, or by open verbal declaration made in either of the ſaid courts, to be by them entered of record, declare that he relinquiſhes the character of a citizen, and ſhall depart out of this commonwealth, ſuch perſon ſhall, from the time of his departure, be conſidered as having exerciſed his right of expatriation, and ſhall thenceforth be deemed no citizen.

VI. All perſons who having accepted a military commiſſion from the United States, or any of them, or who having taken the oath of fidelity to any of the United States, or who having been natives of, or reſidents in any of the United States, on the nineteenth day of April, in the year one thouſand ſeven hundred and ſeventy-five, or at any time ſince, have at any time during the late war, voluntarily joined themſelves to the fleets or armies of the king of Great-Britain, or have voluntarily borne arms againſt the United States, or any of them, in any garriſon, port or fortification, or other place whatſoever, within their territories, or on their coaſts; or have been owner, or part owner of any privateer, or other armed veſſel cruizing againſt the ſaid United States, or any of them; and all and every perſon and perſons, who at any time acted as a member of the board, commonly called the board of refugee commiſſioners, at New-York, or under the authority, or by the direction of the ſaid board, ſhall be, and they are hereby prohibited from migrating to, or becoming citizens of this commonwealth; and all ſuch perſons ſhall be equally ſubject to the pains, penalties and diſabilities of this act, although they have been heretofore, or ſhall be hereafter admitted to take the oaths of fidelity to this commonwealth, in any court of record within the ſame, as if they had not taken the ſaid oaths.

VII. All and every perſon and perſons prohibited by this act, from migrating to this commonwealth, who ſhall be found within the ſame, ſhall and may be proſecuted in the general court of this commonwealth, as for a miſdemeanor; and if upon trial, ſuch perſon or perſons be found guilty of a breach of this act, he or they ſhall be impriſoned, for a term not exceeding ſix months, in the public jail of this commonwealth, without bail or mainprize, and may be fined at the diſcretion of the ſaid court, in any ſum not exceeding three hundred dollars, and ſhall moreover ſtand committed until ſuch fine be paid; and if the perſon or perſons ſo convicted, ſhall be found at large in this commonwealth, after the expiration of one year, from the time of his or their conviction, or of one month from the time of his or their enlargement from jail, ſuch perſon or perſons ſhall be committed to the public jail; and upon proof being made of the identity of ſuch perſon or perſons, he or they ſhall be thereafter impriſoned in the public jail for the ſpace of five years, without bail or mainprize, and ſhall moreover forfeit all his goods and chattels, lands and tenements, for the uſe of the commonwealth; and if any perſon prohibited by this act from migrating to this commonwealth, ſhall inſtitute any ſuit or action whatſoever, in any of the courts of this commonwealth, againſt any citizen or other perſon entitled to become a citizen thereof, the defendant or defendants may plead this act in bar of ſuch action or ſuit; and if upon the trial of the cauſe, it ſhall appear that the plaintiff is by this act prohibited from migrating to this commonwealth, and that the cauſe of action aroſe within the ſame, after the commencement of this act, the jury ſhall find for the defendant or defendants, and thereupon judgment ſhall be given againſt the plaintiff, with treble coſts of ſuit; and the clerk of the court in which ſuch cauſe ſhall be tried, ſhall, within one month thereafter, tranſmit a copy of the record, together with the names of the witneſſes ſworn on the part of the defendant or defendants, to the attorney general; who ſhall, at the next ſucceeding ſeſſion of the general court, file an information, or prefer an indictment to the grand jury, againſt the perſon or perſons againſt whom ſuch verdict and judgment ſhall have been given.

VIII. All perſons reſident in this, or any other of the United States, on the aforementioned nineteenth day of April, and not included in the above deſcription, who are at pre-

ſent prohibited by law from migrating to this ſtate, ſhall be, and they are hereby permitted to migrate into, and enjoy all the rights of citizenſhip, except that they ſhall not be capable of voting for members to either houſe of aſſembly, or of holding or accepting any office of truſt or profit, civil or military.

IX. *Provided*, That nothing herein contained, ſhall be conſtrued ſo as to contraveen the treaty of peace with Great-Britain.

The repealing clauſe is as in the appendix No. 6.

CLERGY. *See Benefit of Clergy.*

CLERKS OF COUNTY AND CORPORATION COURTS. *See County and Corporation Courts.*

COIN.

December the 19th, 1792—but commenced its operation from and after January the 1ſt, 1793.

§ I. FROM and after the firſt day of January, in the year of our lord one thouſand ſeven hundred and ninety-three, the gold and ſilver coin herein after mentioned, ſhall be current in this commonwealth, and ſhall be a legal tender in payment of all debts and contracts between individuals, and in payment of all public dues and taxes, at the rates following, until it ſhall be otherwiſe regulated and directed by the congreſs of the United States, that is to ſay: The gold coin of France, Spain, Portugal, and England, at the rate of five ſhillings and four-pence the pennyweight, or of a dollar for twenty-ſeven grains; the gold coin of Germany at the rate of four ſhillings and ten-pence the pennyweight, or a dollar for twenty-nine grains and eight tenths of a grain; Spaniſh milled dollars at the rate of ſix ſhillings, or one hundred cents; and other ſilver coin uncut, in like proportion. Cut ſilver coin ſhall be receivable at the treaſury of this commonwealth for all public dues and taxes, at the rate of ſix ſhillings and eight-pence, or one dollar and eleven cents the ounce.

II. The money of account of the commonwealth, ſhall be expreſſed in dollars or units, diſmes or tenths, cents or hundredths, and mills or thouſandths; a diſme being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mille the thouſandth part of a dollar; and that all accounts in the public offices, ſhall be kept and had in conformity to this regulation.

III. The treaſurer of the commonwealth is authoriſed and directed to receive from the commiſſioner of the loan-office of the United States in this ſtate, the intereſt which hath or ſhall become due on the deficiency of the ſum allowed to be ſubſcribed of the debt of this commonwealth, agreeably to an act of congreſs, intituled, "An act making proviſion for the debt of the United States."

The repealing clauſe is as in the appendix No. 6.

December the 6th, 1793—but commenced in force from and after March the 1ſt, 1794.

SO much of the act, intituled, "An act concerning coin, and for other purpoſes," as relates to German gold and cut ſilver coin, ſhall be, and is hereby repealed.

COLLECTORS. *See Executive.*

COLLUSIVE JUDGMENTS AGAINST LANDS.

December the 19th, 1791—but commenced in force October the 1st, 1793.

§ I. WHERE a husband doth lose the lands of his wife by default, it is unreasonable that the wife after the death of her husband, should have no other recovery but by writ of right: *(a)*

II. *Be it therefore enacted*, That a women after the dath of her husband, shall not be injured by such default, but shall notwithstanding, retain her right of entry, and may prosecute the same, by any real or mixed action, that may best suit the case. If the tenant shall object to the wife's claim, that he entered by judgment, and it be found that his entry was by default, to which he shall answer, if required, he shall then further answer and shew his right in like manner as in the writ he first purchased against the husband and wife, and if he can shew such right, the wife shall gain nothing by her writ; but if the husband absent himself and will not defend his wife's right, or against the wife's consent, will render the wife's lands in any suit instituted against the husband and wife for lands which are her inheritance during the coverture, then the wife may come at any time before judgment, and defend her right.

III. If tenant in dower, tenant by the curtesy, or otherwise for term of life, or by gift, where the reversion is reserved, do make default, or will give up, the heirs, or they unto whom the reversion belongeth, shall be admitted to their answer if they come before judgment; and if upon such default or surrender, judgment happen to be given, then the heir, or they unto whom the reversion belongeth, after the death of such tenants, shall in no wise be injured by such default or surrender.

IV The dying seized hereafter of any disseisor having no right or title, shall not be such descent in law as to take away the right of entry from such, as at the time of the death of the disseisor, had lawful title of entry, except such disseisor hath had peaceably possession five years next after the disseisin committed without entry, or continual claim of such as have lawful title. *(b)*

V. No feoffment or other conveyance, or other act or acts hereafter to be made, suffered, or done by the husband only, of any lands, tenements, or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, shall in any wise be, or make any discontinuance thereof, or be prejudicial or hurtful to the said wife or her heirs, or to such as shall have right, title, or interest to the same, by the death of such wife; but the said wife or her heirs, and such other to whom such right shall appertain after her decease, shall and may then lawfully enter into all such lands, tenements, and hereditaments, according to their rights and titles therein; any such feoffment, or other conveyance, or act to the contrary notwithstanding.

The repealing clause is as in the appendix No. 7.

COMMISSIONS, DEPOSITIONS, AND DEDIMUSES.

November the 29th, 1792—but commenced in force October the 1st, 1793.

§ I. NO person convicted of treason, murder, or other felony whatsoever, shall be admitted as a witness in any case whatsoever, unless he be first pardoned, or shall have received such punishment, as by law ought to be inflicted upon such conviction.

(a) 13. Edw. I. c. 3. *(b)* 32. Hen. VIII. c. 33.

II. No perſon convicted of perjury, although he be pardoned or puniſhed for the ſame, ſhall be capable of being a witneſs in any caſe.

III. No negro, mulatto or Indian, ſhall be admitted to give evidence, but againſt or between negroes, mulattoes or Indians.

IV. If any perſon ſummoned as a witneſs to attend any court within this commonwealth, or to appear before commiſſioners, referees, or other perſons appointed by or under the authority of ſuch court, to take or receive his depoſition, or teſtimony, or upon any order of ſurvey ſhall fail to attend accordingly, not having a reaſonable excuſe for ſuch failure, ſuch perſon ſhall be fined by the court from whence the ſubpœna iſſued, ſixteen dollars, to the uſe of the party for whom ſuch witneſs was ſummoned; and the witneſs ſo failing, ſhall farther be liable to the action of the party for all damages ſuſtained by the non-attendance of ſuch witneſs, but if ſufficient cauſe of his or her inability to attend, be ſhewn to the court at the time he or ſhe ought to have appeared, or at the next ſucceeding court, then no fine or action ſhall be incurred by ſuch failure.

V. If any perſon ſo ſummoned and attending in any of the cauſes abovementioned, ſhall refuſe to give evidence upon oath or affirmation, (as the caſe may be) to the beſt of his or her knowledge, every perſon ſo refuſing, ſhall be committed to priſon by the court, commiſſioners, referees, or other perſons authoriſed to take or receive his or her depoſition or teſtimony, there to remain without bail or mainprize, until he or ſhe ſhall give ſuch evidence.

VI. Witneſſes ſhall be privileged from arreſts in all caſes except treaſon, felony, and breaches of the peace, during their attendance at any court, or other place where their attendance ſhall by ſubpœna firſt duly executed by a ſworn officer, or by ſome indifferent perſon, who ſhall have made oath to the due execution thereof, have been required, and in coming to and returning from thence, allowing one day for every twenty miles from their places of abode. *Provided always*, That no perſon whatſoever attending any of the courts in this commonwealth, or upon any reference or ſurvey, by order of any ſuch court in virtue of any ſubpœna, ſhall be privileged from an arreſt by original or other proceſs, unleſs ſuch perſon ſhall be actually a witneſs in the matter in ſuch ſubpœna expreſſed.

VII. In all caſes where witneſſes are required to attend any court, commiſſioners, or referees, or on any order of ſurvey, a ſummons ſhall be iſſued by the clerk, at the requeſt of either party, or of the commiſſioners, referees, or ſurveyor, intereſted in, or acting under the order of any ſuch court, expreſſing the day and place where they are to appear, the names of the parties to the ſuit, and in whoſe behalf ſummoned. Any ſubpœna or proceſs to require or compel the attendance of any witneſs, may be ſerved or executed in the diſtrict, county or corporation wherein the ſaid witneſs ſhall be found.

VIII. Every witneſs ſo ſummoned to appear at any county court, or to attend commiſſioners, referees, or other perſons for the purpoſe of giving teſtimony, or upon any ſurvey of lands, and being an inhabitant of the ſame county, ſhall be paid by the perſon or perſons at whoſe ſuit the ſummons iſſued, fifty-three cents for every day's attendance upon ſuch ſummons; and every perſon reſiding in, and ſummoned out of another county, ſhall have the ſaid allowance of fifty-three cents per day for attendance, and be paid for travelling and ferriages to and from court, as witneſſes in the ſuperior courts.

IX. Every witneſs ſo ſummoned and attending the court of appeals, high court of chancery, general court, or any diſtrict court, ſhall be paid by the party at whoſe ſuit the ſummons iſſued, four cents per mile for travelling to the places of attendance, and the ſame for returning, beſides ferriages, and one dollar and four cents per day for his attendance, which allowance ſhall be entered by the clerk of courſe, except where diſputes ariſe concerning the ſame, and then ſuch diſputes ſhall be determined by the court. Witneſſes in all caſes, as well civil as criminal, ſhall be ſworn as to their travelling, ferriages and attendance, for which purpoſe the clerk or ſome of his aſſiſtants ſpecially empowered by the court, or the commiſſioners, referees, or ſurveyor, as the caſe may be, ſhall adminiſter the oaths.

X. No witneſs ſhall be permitted to charge his attendance in more than one ſuit at the

ſame time, but if he be ſummoned to attend in ſeveral ſuits, he may charge his attendance to either of the parties by whom he ſhall be ſummoned at his election.

XI. There ſhall not be allowed in the bill of coſts the charge of more than three witneſſes for the proof of any one particular fact.

XII. When any witneſs ſhall be about to depart the country, or by age, ſickneſs or otherwiſe ſhall be unable to attend the court, upon affidavit thereof, or on a certificate that an affidavit has been made to that effect, from any juſtice of the peace, the clerk of the court in which any ſuit is or ſhall be depending, may, on requeſt of either party, award a commiſſion for taking the depoſition of ſuch witneſs de bene eſſe, to be read as evidence at the trial, in caſe the witneſs ſhould be unable to attend; but the party obtaining ſuch commiſſion, ſhall give reaſonable notice to the other party, of the time and place of taking the depoſition, otherwiſe the ſame ſhall be void.

XIII. Upon affidavit that any witneſs reſides beyond ſea, or in any foreign country, or in any other of the United States, the court wherein the ſuit is depending, may, on requeſt of either party, direct a commiſſion to iſſue from the clerk's office, directed to ſuch commiſſioners, not exceeding five, as ſhall be nominated and agreed upon by the parties litigant; for which purpoſe the party applying for a commiſſion in ſuch caſes, ſhall give the adverſe party, his attorney or agent ten days previous notice of the day of his intended application to the court, without which no commiſſion ſhall iſſue, and if the adverſe party, his attorney or agent ſhall not attend for the purpoſe, in that caſe, the party praying the commiſſion may nominate the commiſſioners himſelf, any three of whom in either caſe may proceed to execute the ſaid commiſſion. *Provided nevertheleſs*, That in either caſe, reaſonable notice ſhall be given to the adverſe party, of the time and place of taking ſuch depoſition, and the coſts of giving notice as aforeſaid, as well as for taking any depoſition or depoſitions in any or either of the United States, or beyond ſea, or in any foreign country, may be taxed by the court againſt the party, who in their opinion, ought in juſtice to pay the ſame.

XIV. If any party in any ſuit at common law or in chancery, ſhall make oath, that he verily believes his claim or defence (as the caſe may be) or a material point thereof depends on a ſingle witneſs, the court, or the clerk in vacation, may award a commiſſion to take the depoſition of ſuch witneſs de bene eſſe, although he or ſhe be not about to depart the country, nor under any diſability, the party in ſuch caſe, giving reaſonable notice of the time and place of taking ſuch depoſition to the adverſe party.

XV. When any will ſhall be produced to any court having juriſdiction in the caſe of ſuch will, for probat, and any witneſs or witneſſes atteſting the ſame ſhall reſide out of this commonwealth, it ſhall be lawful for ſuch court to iſſue a commiſſion or commiſſions annexed to ſuch will, and directed to the preſiding judge of any court of law, to any notary public, mayor, or other chief magiſtrate of any city, town, corporation, or county, or to ſuch other perſon or perſons as by laws of ſuch country, where ſuch witneſs or witneſſes may be found, are duly authoriſed to adminiſter an oath, empowering him or them to take and certify their atteſtations. If the perſon to whom ſuch commiſſion ſhall be directed, ſhall certify in the manner ſuch acts are uſually authenticated by him or them, that the witneſs or witneſſes perſonally appeared before him or them, and made oath, or affirmed, as the caſe may require, that the teſtator ſigned and publiſhed the writing annexed to ſuch commiſſion, as his laſt will and teſtament, or that ſome other perſon ſigned it by his direction; that he was of diſpoſing mind and memory, and that he or they ſubſcribed their names thereto in his preſence, and at his requeſt, ſuch oath or affirmation ſhall have the ſame operation, and the will be recorded in like manner, as if ſuch oath or affirmation had been made in the court from whence ſuch commiſſion iſſued.

XVI. And whereas great inconvenience may ariſe to the ſuitors in the ſeveral courts of this commonwealth, who are litigant with perſons reſiding without this commonwealth, and have not agents or attornies within the ſame, by the death or removal of witneſſes, whoſe depoſitions cannot legally be taken for want of notice to ſuch abſent perſons:

XVII. *Be it therefore enacted*, That when any commiſſion ſhall be obtained, to take the

depoſition of a witneſs in a ſuit depending in any of the courts of this commonwealth, where the plaintiff or defendant in ſuch ſuit doth not reſide within the ſame, or hath not an agent or attorney within the ſame, to whom notice of the time and place of taking ſuch depoſition can be given, then the perſon obtaining ſuch commiſſion, having publiſhed in the Virginia gazette, or in any other public newſpaper printed within this commonwealth, four weeks ſucceſſively, the time and place, when and where, the witneſs is to be examined, and the name of the witneſs, together with the names of the parties to the ſuit in which ſuch witneſs is to be examined, it ſhall and may be lawful for any plaintiff or defendant as aforeſaid, to proceed to take any depoſition authoriſed by the commiſſion iſſuing from the court agreeable to law, where the ſuit depends as aforeſaid; and ſuch depoſition when taken and returned to the clerk's office agreeable to the rules of the court from whence the commiſſion iſſued, ſhall there be filed and allowed to be read in evidence in the ſame manner, and under the like reſtrictions as if notice had been duly given to the oppoſite party; any law, uſage, or cuſtom, to the contrary in any wiſe notwithſtanding; and the printer may demand and receive the ſum of two dollars for publiſhing ſuch advertiſement four weeks, which ſhall be taxed in the bill of coſts, if the party chargeable therewith ſhall prevail in the ſuit.

The repealing clauſe is as in the appendix No. 8.

COMMITTEES. *See Guardians, Orphans, Committes, Infants Maſters and Apprentices.*

CONSERVATORS OF THE PEACE.

October the 17th, 1792—but commenced October 1ſt, 1793.

THE judges of the court of appeals, high court of chancery, and general court, ſhall be conſervators of the peace throughout the commonwealth; and the juſtices of the peace in each county and corporation ſhall be conſervators of the peace within their ſeveral counties and corporations, reſpectively; and the ſaid judges and juſtices within the limits aforeſaid, reſpectively, ſhall have power to demand of ſuch perſons as are not of good fame, ſufficient ſurety and mainprize of their good behaviour. *(a)*

The repealing clauſe is as in the appendix No. 9.

CONSPIRATORS.

November the 27th, 1786—but commenced in force January 1, 1787.

CONSPIRATORS be they that do confederate and bind themſelves by oath, covenant, or other allianee, that every of them ſhall aid and bear the other falſely and maliciouſly, to move or cauſe to be moved any indictment or information againſt another on the part of the commonwealth, and thoſe who are convicted thereof at the ſuit of the commonwealth, ſhall be puniſhed by impriſonment and amercement, at the diſcretion of a jury. *(b)*

CONVEYANCES.

December the 13th, 1792—bnt commenced October 1ſt, 1793.

§ I. NO eſtate of inheritance, or freehold, or for a term of more than five years, in lands or tenements, ſhall be conveyed from one to another, unleſs the conveyance be declared by writing, ſealed, and delivered; nor ſhall ſuch conveyance be good againſt a purchaſer

(a) 34. Edw. III. c. 1. *(b)* 33. Edw. I. Stat. 2.

for valuable conſideration, not having notice thereof, or any creditor, unleſs the ſame writing be acknowledged by the party or parties who ſhall have ſealed and delivered it, or be proved by three witneſſes to be his, her, or their act, before the general court, or the court of that diſtrict, county, city, or corporation inwhich the land conveyed, or ſome part thereof lieth, or in the manner herein after directed, within eight months after the time of ſealing and deliverning, and be lodged with the clerk of ſuch court to be there recorded. *(a)*

II. No covenant or agreement made in conſideration of marriage, ſhall be good againſt a purchaſer for valuable conſideration, not having notice thereof, or any creditor, unleſs the ſame covenant or agreement be acknowledged by the party bound thereby, or be proved by three witneſſes, to be his, her, or their act, if land be charged, before the general court, or the court of that diſtrict or county in which the land or part thereof lieth, or if perſonal eſtate only be ſettled or covenanted, or agreed to be paid or ſettled, before the court of that diſtrict, county, city, or corporation, in which ſuch party ſhall dwell, or in the manner herein after directed, within eight months after the covenant or agreement made, and be lodged with the clerk of ſuch court, to be there recorded. *(a)*

III. When any ſuch deed or conveyance ſhall be aeknowledged or proved in court, in order to their being recorded, the livery of ſeizin thereupon made, in ſuch caſes where the ſame is by law required, ſhall in like manner be acknowledged or proved, and ſhall be recorded together with the deed or conveyance whereupon it ſhall be made. *(b)*

IV. All bargains, ſales, and other conveyances, whatſoever, of any lands, tenements, or hereditaments, whether they be made for paſſing any eſtate of freehold, or inheritance, or for term of years, and all deeds of ſettlement upon marriage, wherein either lands, ſlaves, money, or other perſonal thing ſhall be ſettled or covenanted to be left, or paid at the death of the party or otherwiſe, and all deeds of truſt and mortgages whatſoever, which ſhall hereafter be made and executed, ſhall be void as to all creditors and ſubſequent purchaſers, unleſs they ſhall be acknowledged or proved, and recorded according to the directions of this act; but the ſame, as between the parties and their heirs, ſhall nevertheleſs be valid and binding. *(c)*

V. If the party who ſhall ſign and ſeal any ſuch writing, reſide not in Virginia, or in the diſtrict or county where the lands conveyed lie, the acknowledgment by ſuch party, or the proof by the number of witneſſes requiſite, of the ſealing and delivering of the writing, before any court of law, or the mayor or other chief magiſtrate of any city, town, or corporation of the county in which the party ſhall dwell, certified by ſuch court, or mayor, or chief magiſtrate, in the manner ſuch acts are uſually authenticated by them, and offered to the proper court to be recorded within eighteen months after the ſealing and delivering, where the party reſides out of this commonwealth, and within eight months after the ſealing and delivery where the party reſides within this commonwealth, ſhall be as effectual as if it had been in the laſt mentioned court. *(d)*

VI. When huſband and wife have ſealed and delivered a writing, purporting to be a conveyance of any eſtate or intereſt, if ſhe appear in court, and being examined privily and apart from her huſband, by one of the judges thereof, ſhall declare to him that ſhe did freely and willingly ſeal and deliver the ſaid writing to be then ſhewn and explained to her, and wiſhes not to retract it, and ſhall before the ſaid court acknowledge the ſaid writing, again ſhewn to her, to be her act, or if before two juſtices of the peace of that county in which ſhe dwelleth, if her dwelling be in the United States of America, who may be empowered by commiſſion, to be iſſued by the clerk of the court wherein the writing ought to be recorded, to examine her privily, and take her acknowledgment, the wife being examined privily and apart from her huſband, by thoſe commiſſioners, ſhall declare that ſhe willingly ſigned and ſealed the ſaid writing, to be then ſhewn and explained to her by them, and conſenteth that it may be recorded, and the ſaid commiſſioners ſhall return with the commiſſion, and thereunto annexed a certificate under their hands and ſeals of ſuch privy examination by them, and of ſuch declaration made, and conſent yielded by her, in either

(a) 1785. c. 62. *(b)* 1748. c. 1. § 2. *(c)* 1748. c. 1. § 4. *(d)* 1785. c. 62.

caſe the ſaid writing, acknowledged alſo by the huſband, or proved by witneſs to be his act, and recorded together with ſuch her privy examination and acknowledgment before the court, or together with ſuch commiſſion and certificate, ſhall not only be ſufficient to convey or releaſe any right of dower thereby intended to be conveyed or releaſed, but be as effectual for every other purpoſe as if ſhe were an unmarried woman. *(a)*

VII. If the dwelling of the wife be not in the United States of America, the commiſſion to examine her privily and take her acknowledgment, ſhall be directed to any two judges or juſtices of any court of law, or to the mayor, or other chief magiſtrate of any city, town, or corporation of the country in which the wife ſhall dwell, and may be executed by them in the ſame manner as a commiſſion directed to two juſtices in the United States of America; and the certificate of the judges or juſtices of ſuch court, or the certificate of ſuch mayor or chief magiſtrate authenticated in the form, and with the ſolemnity by them uſed in other acts, ſhall be as effectual as the like certificate of the juſtices in the United States of America. And whereas it has always been adjudged, that when a deed has been acknowledged by a feme covert, and no record made of her privy examination, ſuch deed is not binding on the feme or her heirs, it is therefore declared, that the law herein ſhall always be held according to the ſaid judgments; and the clerks of the courts before whom any deed of a feme covert ſhall be acknowledged, ſhall always hereafter record her privy examination. *(a)*

VIII. The clerk of every court ſhall record all writings acknowledged or proved before ſuch court, or certified to have been acknowledged and proved in manner before preſcribed, together with the commiſſions for privily examining and taking the acknowledgments of married women, and all endorſements on ſuch writings, and plats, ſchedules and other papers thereto annexed, by entering them word for word in well bound books, to be carefully preſerved, and afterwards re-deliver them to the parties entitled to them, and ſhall moreover make a docket of all ſuch writings, containing the dates thereof, and of the acknowledgments and probats, the names, ſurnames, and additions of the parties thereto in alphabetical order, and the quantities and ſituations of land, numbers and names of ſlaves, and deſcriptions of perſonal eſtate conveyed thereby; and the clerk of every diſtrict or county court, ſhall tranſmit ſuch docket made by him to the clerk of the general court, on or before the firſt of October annually, to be recorded by him. *(a)*

IX. Every eſtate in lands or ſlaves, which on the ſeventh day of October, in the year of our lord one thouſand ſeven hundred and ſeventy-ſix, was an eſtate in fee tail, ſhall be deemed from that time to have been, and from thenceforward to continue an eſtate in fee-ſimple: And every eſtate in lands, which ſince hath been limited, or hereafter ſhall be limited, ſo that as the law aforetime was, ſuch eſtate would have been an eſtate tail, ſhall alſo be deemed to have been, and to continue an eſtate in fee-ſimple. And all eſtates which before the ſaid ſeventh day of October, one thouſand ſeven hundred and ſeventy-ſix, by the law, if it remained unaltered, would have been eſtates in fee tail, and which now by virtue of this act, are, and will be eſtates in fee-ſimple, ſhall from that time and henceforth be diſcharged of the conditions annexed thereto by the common law, reſtraining alienations before the donee ſhall have iſſue, ſo that the donees or perſons in whom the conditional fees veſted, or ſhall veſt, had and ſhall have the ſame power over the ſame eſtates, as if they were pure and abſolute fees. *(a)*

X. *Provided always*, That all eſtates in lands or ſlaves which have become, or ſhall hereafter become eſcheatable to the commonwealth, by virtue of the act, intituled, "An act declaring tenants of lands or ſlave in tail, to hold the ſame in fee-ſimple," or of this act, for defect of blood, ſhall deſcend, and be deemed to have deſcended agreeable to the limitations of the deed or will creating ſuch eſtates. *(a)*

XI. *Provided alſo*, That nothing in this act contained, ſhall be conſtrued to reſtrain any tenant of ſuch lands or ſlaves, from ſelling or conveying the ſame by deed in his or her lifetime, or diſpoſing thereof by his or her laſt will and teſtament, and that all ſuch

(a) 1785. c. 62,

eſtates ſhall remain liable to the debts of the tenants in the ſame manner as lands and ſlaves held in fee-ſimple: *Provided moreover*, That this act ſhall not extend to any lands or ſlaves which have been eſcheated and ſold for the uſe of the commonwealth.

XII. Every eſtate in lands which ſhall hereafter be granted, conveyed, or deviſed to one, although other words heretofore neceſſary to transfer an eſtate of inheritance be not added, ſhall be deemed a fee-ſimple, if a leſs eſtate be not limited by expreſs words, or do not appear to have been granted, conveyed, or deviſed by conſtruction or operation of law. *(a)*

XIII. Where an eſtate hath been, or ſhall be by any conveyance limited in remainder to the ſon or daughter, of or to the uſe of the ſon or daughter of any perſon, to be begotten, ſuch ſon or daughter born after the deceaſe of his or her father, ſhall take the eſtate in the ſame manner as if he or ſhe had been born in the lifetime of the father, although no eſtate ſhall have been conveyed to ſupport the contingent remainder after his death. *(a)*

XIV. By deed of bargain and ſale, or by deeds of leaſe and releaſe, or by covenant to ſtand ſeized to uſe, or deed operating by way of covenant to ſtand ſeized to uſe, the poſſeſſion of the bargainor, releaſor, or covenantor, ſhall be deemed heretofore to have been, and hereafter to be transferred to the bargainee, releaſee, or perſon entitled to the uſe, for the eſtate or intereſt which ſuch perſon hath, or ſhall have in the uſe, as perfectly as if ſuch bargainee, releaſee, or perſon entitled to the uſe had been enfeoffed, with livery of ſeizin of the land intended to be conveyed by ſuch deed or covenant. *(a)*

XV. Eſtates of every kind holden or poſſeſſed in truſt, ſhall be ſubject to like debts and charges of the perſons to whoſe uſe, or for whoſe benefit they were, or ſhall be, reſpectively holden or poſſeſſed, as they would have been ſubject to, if thoſe perſons had owned the like intereſt in the things holden or poſſeſſed, as they own or ſhall own in the uſes or truſts thereof. *(a)*

XVI. Where any perſon to whoſe uſe, or in truſt for whoſe benefit another is or ſhall be ſeized of lands, tenements, or hereditaments, hath or ſhall have ſuch inheritance in the uſe or truſt, as that if it had been a legal right, the huſband or wife of ſuch perſon would thereof have been entitled to curteſy or dower, ſuch huſband or wife ſhall have and hold, and may by the remedy proper in ſimilar caſes, recover curteſy or dower of ſuch lands, tenements, or hereditaments. *(a)*

XVII. Grants of rents, or of reverſions, or remainders, ſhall be good and effectual without attornments of the tenants, but no tenant who, before notice of the grant, ſhall have paid the rent to the grantor, ſhall ſuffer any damage thereby. *(a)*

XVIII. The attornment of a tenant to any ſtranger ſhall be void, unleſs it be with conſent of the landlord of ſuch tenant, or purſuant to, or in conſequence of the judgment of a court of law, or the order or decree of a court of enquiry. *(a)*

XIX. All conveyances by commiſſioners and ſheriffs hereafter to be made for lands ſold in virtue of any decree or judgment of any court within this commonwealth, ſhall be, and they are hereby declared to be good and effectual, for paſſing the abſolute title of ſuch lands to the purchaſers thereof, and all perſons claiming under them, any law to the contrary notwithſtanding; ſaving to the commonwealth, and to all and every perſon and perſons, bodies politic and corporate, their reſpective heirs and ſucceſſors, other than the parties to ſuch conveyances, decrees or judgments, and thoſe claiming under them, all ſuch right, title, intereſt and demand, as they, every or any of them, would have had in caſe this act had not been made.

XX. All and every act and acts, clauſe and clauſes of acts, containing any thing within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided nevertheleſs*, That nothing herein contained ſhall be conſtrued to affect any right which may have accrued, or been veſted before the commencement of this act.

(a) 1785. c. 62.

December the 25th, 1794.

§ I. WHEREAS it is enacted in the fifth ſection of the act, intituled, "An act for regulating conveyances," paſſed the thirteenth day of December, in the year of our lord, one thouſand ſeven hundred and ninety-two, in the following words, to wit: "If the party who ſhall ſign and ſeal any ſuch writing reſide not in Virginia, or in the diſtrict or county where the lands conveyed lie, the acknowledgment of ſuch party, or the proof by the number of witneſſes requiſite, of the ſealing and delivering of the writing, before any court of law, or the mayor or other chief magiſtrate of any city, town, or corporation of the county in which the party ſhall dwell, certified by ſuch court, or mayor, or chief magiſtrate, in the manner ſuch acts are uſually authenticated by them, and offered to the proper court, to be recorded within eighteen months after ſealing and delivering, where the party reſides out of this commonwealth, and within eight months after the ſealing and delivery, where the party reſides within this commonwealth, ſhall be as effectual as if it had been in the laſt mentioned court:" And whereas the operation of the ſaid act is found not to be coextenſive with the intent thereof, by reaſon that ſome of the ſubdiviſions of the United States, as well as of other countries, are not denominated by the term of counties:

II. *Be it therefore enacted*, That if any party who ſhall ſign and ſeal any ſuch writing as is contemplated in the ſection aforeſaid, reſide not in Virginia, the acknowledgment by ſuch party, or the proof by the number of witneſſes requiſite of the ſealing and delivering of the writing before any court of law, or the mayor or other chief magiſtrate of any city, town, or corporation, of and in the country in which the party ſhall dwell, certified by ſuch court, or mayor, or chief magiſtrate, in the manner ſuch acts are uſually authenticated by them, and offered to the proper court to be recorded within two years after the ſealing and delivering, ſhall be as effectual as if it had been done in the laſt mentioned court.

CONVICTS.

November the 13th, 1788.

§ I. WHEREAS it has been repreſented to this general aſſembly, by the United States in congreſs, that a practice has prevailed, for ſome time paſt, of importing felons convict into this ſtate, under various pretences, which ſaid felons convict ſo imported have been ſold and diſperſed among the people of this ſtate, whereby much injury hath been done to the morals, as well as the health, of our fellow citizens: For remedy whereof, *Be it enacted*, That from and after the firſt day of January next, no captain or maſter of any veſſel, or any other perſon, coming into this commonwealth, by land or by water, ſhall import, or bring with him, any perſon who ſhall have been a felon convict, or under ſentence of death, or any other legal diſability incurred by a criminal proſecution, or who ſhall be delivered to him from any priſon or place of confinement, in any place out of the United States.

II. Every captain or maſter of a veſſel, or any other perſon, who ſhall preſume to import, or bring into this commonwealth, by land or by water, or ſhall ſell or offer for ſale, any ſuch perſon as above deſcribed, ſhall ſuffer three months impriſonment, without bail or mainprize, and forfeit and pay for every ſuch perſon ſo brought and imported, or ſold or offered for ſale, the penalty of fifty pounds current money of Virginia, one half to the commonwealth, and the other half to the perſon who ſhall give information thereof; which ſaid penalty ſhall be recovered by action of debt, or information, in any court of record, in which the defendant ſhall be ruled to give ſpecial bail.

CORONERS.

November the 29th, 1792.

§ I. FROM time to time hereafter, as often as there ſhall be a vacancy in the office of coroner, in any county or corporation within this commonwealth, the court of ſuch county or corporation ſhall, at their next ſeſſion thereafter, nominate two fit and diſcreet perſons, reſiding within ſuch county or corporation, to be coroner thereof; one of which perſons, being approved by the governor, with the advice of the council, ſhall be commiſſioned by the governor to execute the office of coroner within ſuch county or corporation during good behaviour. *(a)*

II. If any court ſhall fail to make ſuch nomination at the time preſcribed by this act, every juſtice of ſuch court ſhall forfeit and pay the ſum of one hundred and fifty dollars, to be recovered by action of debt in any court of record within this commonwealth, one half to the uſe of the informer, the other half to the uſe of the commonwealth; or by information at the ſuit of the auditor, in the general court, in which caſe the whole penalty ſhall be to the uſe of the commonwealth.

III. *Provided always*, That nothing in this act contained, ſhall be conſtrued to reſtrain or prevent the county or corporation courts from nominating any perſon or perſons to the governor, to be coroner within ſuch county or corporation, whenſoever in their opinion a neceſſity may ariſe of having more than one coroner in ſuch county or corporation.

IV. *Provided alſo*, That no coroner appointed for a county or corporate town, ſhall execute any of the duties of his office, except within ſuch town or county, for which he ſhall have been ſo appointed.

V. Every coroner ſo commiſſioned, before he enters upon the duties of his office, ſhall in open court, take the oath of fidelity to the commonwealth, and the following oath of office, viz.

I, A. B. do ſwear, that I will well and truly ſerve the commonwealth, in the office of a coroner, in the county or corporation of , and therein will diligently and truly do all things appertaining to my ſaid office, according to the beſt of my knowledge and power, both for the common weal, and the good of the inhabitants within the ſaid county or corporation, taking ſuch fees only as are by law allowed. So help me God.

And before he ſhall be at liberty to ſerve any writ of execution, ſhall moreover, in the court of his county or corporation, enter into bond with good and ſufficient ſecurity, payable to the governor for the time being, and his ſucceſſors, for the uſe of the commonwealth, in the penalty of ten thouſand dollars, with condition for the true and faithful execution of his office. And if any coroner ſhall preſume to ſerve any ſuch writ of execution without firſt taking the ſaid oaths, and entering into bond as by this act is directed, he ſhall forfeit and pay the ſum of fifteen hundred dollars, one half to the uſe of the informer, the other half to the uſe of the commonwealth; and ſhall moreover be liable to the ſame damages, judgment, and execution at the ſuit of the party grieved, in caſe of any miſdemeanor or breach of duty in the execution thereof, as he would have been ſubjected to in the like caſe, after having been duly qualified to execute his ſaid office.

VI. Upon requeſt made to a coroner to come and enquire upon the view of any perſon ſlain, drowned, or otherwiſe by miſadventure, or ſuddenly dead, or wounded, or where houſes are broken, he ſhall forthwith go to the place where any be ſlain, drwned, or otherwiſe by miſadventure, or ſuddenly dead, or where any houſe is broken, and ſhall forthwith iſſue his precept to the ſheriff, ſerjeant of a corporation, or conſtable of the county, or corporation, directing him to ſummon at leaſt twelve of the moſt intiligent and reſpectable freeholders of the vicinage, or county or corporation, to appear before him at the ſame place with all convenient ſpeed. *(b)*

(a) 3. Edw. I. c. 10 & 14. Edw. III. c. 8. *(b)* 1. Hen. VIII. c. 7 & 4. Edw. I. ſt. 1.

VII. And when the ſaid freeholders come to ſuch place, the coroner, upon the oath of twelve of them, ſhall enquire in this manner, to wit: If they know where the perſon was ſlain, whether it were in any houſe, field, bed, tavern, or company, and who were there: Likewiſe it is to be enquired, who were guilty either of the act or of the force, and who were preſent, either men or women, and of what age ſoever they be, if they can ſpeak, or have any diſcretion. *(a)*

VIII. And how many ſoever be found guilty by inquiſition in any of the manners aforeſaid, they ſhall be taken and delivered to the ſheriff or ſerjeant, and ſhall be committed to the jail, until the next court to be holden within the county or corporation, for the examination of ſuch offender, and the coroner ſhall have the like power and authority to ſummon ſuch court, and ſhall proceed in like manner as a juſtice of the peace before whom ſuch criminal might have been charged with ſuch offence, could or ought to do by law. *(a)*

IX. If any perſon is found ſlain, firſt it is to be enquired whether ſuch perſon were ſlain in the place where found, or not; and if ſuch perſon were brought and laid there, they ſhall do ſo much as they can to follow their ſteps that brought the body thither, and aſcertain in what manner ſuch body was brought there. It ſhall be enquired alſo if the dead perſon were known, or elſe a ſtranger, and where ſuch perſon lay the night before. *(a)*

X. And if any perſon be found guilty of the murder, the coroner ſhall immediately go into his houſe, and ſhall enquire what eſtate both real and perſonal he hath, and after ſuch enquiry, the ſaid coroner ſhall cauſe all the eſtate to be valued, and keep the ſame in his hands, until the perſon found guilty by the inqueſt be taken or ſurrender himſelf. *(a)*

XI. And every coroner upon any inquiſition found before him, whereby any perſon, or perſons ſhall be indicted for murder or manſlaughter, or as acceſſary or acceſſaries to the ſame before the murder or manſlaughter committed, ſhall put in writing the effect of the evidence given to the jury before him, being material; and the ſaid coroner ſhall have authority by this act, to bind all ſuch by recognizance or obligation, as do declare any thing materal to prove the ſaid murder or manſlaughter, offences or felonies, or to be acceſſary or acceſſaries to the ſame, as is aforeſaid, to appear at the court to be holden within the county, city, or borough, for the examination of ſuch offender or offenders, then and there to give evidence againſt the party ſo indicted, at the time of his trial; and ſhall certify as well the ſame evidence as ſuch bond or bonds in writing as he ſhall take, together with the inquiſition or indictment before him taken and found, at or before the time of his ſaid trial thereof to be had or made, to ſuch court. *(b)*

XII. In like manner it is to be enquired reſpecting them that be drowned, or ſuddenly dead, what marks of violence appear on their bodies; whereupon they ſhall proceed in the form aforeſaid. *(c)*

XIII. And immediately upon theſe things being enquired, the bodies of ſuch perſons being dead or ſlain, ſhall be buried. *(c)*

XIV. If any perſon be dangerouſly wounded, the party accuſed ſhall be taken immediately and kept, until it be known perfectly whether he that is hurt ſhall recover or not; and if he die, the defendant ſhall be kept; and if he recover health, he ſhall be attached by pledges according to the danger of the wound.

XV. Alſo all wounds ought to be viewed, the length, breadth and deepneſs, and with what weapons, and in what part of the body the wound or hurt is, and how many be guilty, and how many wounds there be, and who gave the wound; all which things muſt be inrolled in the roll of the coroners.

XVI. Moreover, if any be accuſed of any act done, as principal, they that be accuſed, as acceſſary, ſhall be attached alſo, and ſafely kept in cuſtody, until the principal be attainted or delivered.

XVII. If any be ſuſpected of the death of any man, he ſhall be taken and impriſoned, as before is ſaid. *(c)*

(a) 4. Edw. I. ſt. 2. *(b)* 1 & 2. Phil. & Mar. c. 13. § 5. *(c)* 4. Edw. I. ſt. 2.

XVIII. In like manner hue ſhall be levied for all murders, burglaries, and for men ſlain, or in peril to be ſlain, and all ſhall follow the hue and ſteps, as near as can be, and he that doth not, ſhall be amerced at the diſcretion of a jury.

XIX. If any be found guilty by inquiſition taken in manner directed by this act, and be not preſent, nor in cuſtody, the coroner ſhall ſtraight iſſue his warrant to apprehend the perſon ſo found guilty, and the acceſſaries, if any; and the perſon accuſed, if apprehended, ſhall ſtraightway be carried before ſome juſtice of the county or corporation where the offence was committed, to be dealt with as the laws direct.

XX. If any coroner be remiſs, and make not inquiſition upon the view of the body ſlain or murdered, or ſhall not endeavor to do his office upon any perſon dead by miſadventure, or ſhall not certify the inquiſition by him taken in the manner directed by this act, he ſhall for every ſuch offence, forfeit the ſum of one hundred dollars; to be recovered by action of debt, in any court of record of this commonwealth, one half thereof to the uſe of the informer, the other half to the uſe of the commonwealth.

XXI. In every caſe when by reaſon of a juſt exception to the ſheriff of any county, or ſerjeant of a corporation, any writ, of what nature ſoever the ſame may be, ſhall be delivered to the coroner of ſuch county or corporation to execute, ſuch coroner ſhall do and perform all things by virtue of ſuch writ, which the ſheriff or ſerjeant himſelf, might or ought to have done, had there been no juſt exception againſt him according to the nature of the caſe; and in caſe of any neglect or breach of his duty, ſuch coroner ſhall be ſubject to the ſame pains, penalties, fines, forfeitures and damages, and to the ſame proceedings, judgment and execution, as ſheriffs or ſerjeants are ſubject to in like caſes.

XXII. And upon every execution iſſued againſt a coroner, upon any judgment againſt him obtained for breach or neglect of his duty, the clerk ſhall endorſe, that "no ſecurity is to be taken."

The repealing clauſe is as in the appendix No. 10.

CORPORATION COURTS. *See Courts.*

COUNCIL. *See Executive.*

COUNTY COURTS. *See Courts.*

COUNTY LEVY. *See Tithables and County Levy. See alſo Fees.*

COUNSEL. *See Attornies at Law.*

COUNTERFEIT LETTERS OR PRIVY-TOKENS.

November the 18th, 1789.

§ 1. WHEREAS many evil diſpoſed perſons, have falſely and deceitfully contrived deviſed and imagined privy-tokens and counterfeit letters in other mens names unto divers perſons, their ſpecial friends and acquaintances, for the obtaining of money

goods and chattels of the ſame perſons, their friends and acquaintances, by colour whereof he ſaid evil diſpoſed perſons, have deceitfully and unlawfully obtained and gotten great ubſtance of money, goods and chattels into their hands and poſſeſſion, contrary to right and conſcience: *(a)*

II. If any perſon or perſons, ſhall falſely and deceitfully obtain or get into his or their hands or poſſeſſion, any money, goods or chattels of any other perſon or perſons, by colour and means of any ſuch falſe token, or counterfeit letter, made in any other man's name as is aforeſaid, every ſuch perſon and perſons ſo offending, and being thereof lawfully convicted in the court of the diſtrict, in which ſuch offence ſhall have been committed, ſhall have and ſuffer ſuch correction and puniſhment, by impriſonment of his body, without bail or mainprize, for any ſpace, not exceeding one year, and ſetting upon the pillory, as ſhall be unto him, or them, limited, adjudged or appointed by the ſaid court.

III. Saving to the party grieved by ſuch deceit, ſuch remedy by way of action or otherwiſe, of and for the ſame money, goods and chattels ſo obtained, as he might have had, if this act had never been made, any thing in the ſame contained to the contrary, in any wiſe notwithſtanding.

COURT OF APPEALS. *See Courts.*

COURT OF APPEALS.

October the 26th, 1792.

§ 1. THE court of appeals ſhall conſiſt of five judges, to be choſen and commiſſioned in the manner directed by the conſtitution of this commonwealth. Any three of the ſaid judges ſhall conſtitute a court. The ſaid court ſhall be holden at the capitol, in the city of Richmond, or at ſuch other place as ſhall be appointed by the general aſſembly, or in their receſs, by the governor, with the advice of the council of ſtate, on any ſuch emergency, as will make the adjournment lawful. The ſaid court ſhall be holden twice in every year, namely, on the tenth day of April, and the tenth day of October, or when that ſhall happen to be Sunday, on the ſucceeding day, and ſhall ſit each time, until the buſineſs depending before them ſhall be diſpatched. Every judge before he exerciſes his office, ſhall in open court give aſſurance of fidelity to the commonwealth, and take this oath:— *(b)*

You ſhall ſwear that you will well and truly ſerve this commonwealth in the office of a judge of the court of appeals, and that you will do equal right to all manner of people, great and ſmall, high and low, rich and poor, without reſpect of perſons. You ſhall not take by yourſelf, or by any other, any gift fee, or reward of gold, ſilver, or any other thing, directly or indirectly, of any perſon or perſons, great or ſmall, for any matter done or to be done, by virtue of your office, except ſuch fees or ſalary, as ſhall be by law appointed. You ſhall not maintain by yourſelf or by any other, privily or openly, any plea or quarrel, depending in the courts of this commonwealth. You ſhall not delay any perſon of right for the letters or requeſt of any perſon, nor for any other cauſe; and if any letter or requeſt come to you contrary to the law, you ſhall nothing do for ſuch letter or requeſt, but you ſhall proceed to do the law, any ſuch letter or requeſt notwithſtanding. And finally in all things belonging to your ſaid office, during your continuance therein, you ſhall faithfully, juſtly, and truly, according to the beſt of your ſkill and judgment, do equal and impartial juſtice, without fraud, favor, or affection. So help you God.

(a) 33. Hen. VIII. c. 1. *(b)* 1788. c. 66. & 1792. c. 12.

II. The ſaid court ſhall have juriſdiction not only in the caſes provided for by the conſtitution of this commonwealth, and in ſuits originating there, or adjourned thither for trial by virtue of any ſtatute, which trial ſhall be by juries according to the courſe of law, but alſo in ſuch as are now pending therein, or ſhall be brought before them by appeals, writs of error, or ſuperſedeas, to reverſe decrees of the high court of chancery, or judgments of the general court, or diſtrict courts of this commonwealth, after thoſe deciſions ſhall be final there, if the matter in controverſy be equal in value, excluſive of coſts, to one hundred dollars, if the judgment ſought to be reverſed, ſhall be rendered in the diſtrict courts, or one hundred and fifty dollars, if in the general court or high court of chancery, or be a freehold or franchiſe; and in all other caſes therein depending at the commencement of this act. *(a)*

III. If a ſufficient number of judges to conſtitute a court ſhall not attend on the firſt day of any term of the court of appeals, it ſhall be lawful for any one judge thereof to adjourn the court from day to day, for four days ſucceſſively, or until a ſufficient number ſhall attend, and if that ſhall not happen before four of the clock on the fourth day, then the court ſhall ſtand adjourned, and all ſuits depending therein continued to the next court. And if during any ſeſſion after a court ſhall have been conſtituted, three judges ſhall not attend to make a court, there ſhall be no diſcontinuance of the term, but the court ſhall ſtand adjourned from day to day, 'til a ſufficient number ſhall attend; provided that ſhall happen in four days: And if it does not, then the term and ſuits ſhall ſtand adjourned to the next court, as before directed. *(b)*

IV. Although one or more of the judges of the court of appeals be intereſted in the event of any ſuit, matter or thing depending therein, the ſame ſhall be finally decided by the other judges, if there be a number of judges not ſo intereſted, ſufficient to conſtitute a court *(c)*

V. If on an appeal from the high court of chancery, or on any queſtion concerning any decree or order made therein, or proceſs to be directed thereto, a majority of, or all the judges of the court of appeals be intereſted, then in the former caſe the remaining judges of the court of appeals not ſo intereſted, and as many of the judges of the general court, as will make the number at leaſt five, and in the latter caſe ſo many of the judges of the general court not ſo intereſted, as will make the number five at leaſt, ſhall conſtitute a ſpecial court for the trial of ſuch appeal or queſtion. If on an appeal, writ of error, or ſuperſedeas, to or from any judgment or order made in the general court, or any queſtion concerning the ſame, or any proceſs to be directed thereto, a majority or all of the judges of the court of appeals be intereſted therein, then in the former caſe the remaining judges of the court of appeals, not being ſo intereſted, together with the judge of the high court of chancery, and as many of the judges of the general court, not being ſo intereſted, as will make the number five at leaſt, ſhall conſtitute a like court for the purpoſe aforeſaid. If on an appeal, writ of error, or ſuperſedeas, to or from any judgment or order made in a diſtrict court, or any queſtion concerning the ſame, or concerning any proceſs to be directed thereto, a majority or all the judges of the court of appeals be intereſted, then in the former caſe, the remaining judges of the court of appeals not being intereſted, the judge of the high court of chancery not being ſo intereſted, and as many of the judges of the general court, who are not ſo intereſted, and did not render the judgment, or direct the order, as will make the number five at leaſt, ſhall conſtitute a like court for the purpoſe aforeſaid; and in the latter caſe, no judge of the court of appeals ſhall ſit; but any five of the judges laſt mentioned, and not diſqualified as aforeſaid, ſhall conſtitute a court; *Provided always*, That in caſe of the ſickneſs or other diſability of the judge of the high court of chancery to attend any ſpecial court of appeals, ſuch court may, in any caſe, be conſtituted by other judges. *And provided alſo*, That when any ſpecial court ſhall be appointed for the trial of any cauſe depending in the court of appeals, becauſe a majority of the judges of that court are intereſted or otherwiſe diſqualified to ſit therein, in caſe of the ſickneſs or diſability of the remain-

(a) May 1779 c. 22. § 1—& 1783. c. 67. § 16. *(b)* 1790. c. 9. § 2. *(c)* 1789. c. 18. § 5.

ing judge or judges of the ſaid court not ſo diſqualified, or either of them, the remaining judge or judges of the ſaid court not ſo diſqualified, or either of them, the remaining judges appointed by law to hold ſuch court, or any five of them attending may proceed to a hearing and deciſion of the cauſe, in the ſame manner as if all the judges of the court of appeals, not ſo diſqualified, had been preſent. *(a)*

VI. Whenſoever a majority or all the judges of the court of appeals ſhall be intereſted in any of the caſes above-mentioned, the ſame ſhall be entered of record in the ſaid court, and the clerk thereof ſhall thereupon iſſue a ſummons to the judge of the high court of chancery, and judges of the general court, requiring them, if not diſqualified as aforeſaid, to attend at the capitol, in the city of Richmond, or in caſe of adjournment of the court of appeals to any other place, at ſuch other place on the twentieth day of June or November, then next following, and ſtating the names of the parties, and the court whoſe deciſion is to be examined. A court conſtituted in any of the caſes above deſcribed, ſhall hear, determine, and finally decide all ſuits, proceſs, matters and things ſubmitted to their cognizance and juriſdiction aforeſaid. *(b)*

VII. The clerk of the court of appeals for the time being, ſhall attend all ſuch ſpecial courts with the records in the caſes to ſuch ſpecial courts committed, and enter the proceedings of all ſuch ſpecial courts in the order book of the court of appeals, and the ſame ſhall be ſigned by the preſiding judge of ſuch ſpecial court, and be certified to the inferior court; and the judgment or decree, ſentence or order of ſuch court, ſhall be carried into execution in the ſame manner as if the ſame had been determined in the court of appeals. Such ſpecial courts ſhall be attended by the like officers with the court of appeals, who ſhall receive the like compenſation as they now do in the ſaid court; and ſuch ſpecial courts may adjourn and do all and every act as a court during their ſeſſion, which the court of appeals may by law do. *(c)*

VIII. *Provided always*, That where any cauſe ſhall be pending in any ſuch ſpecial court and the ſame ſhall not be determined before there ſhall be a ſufficient number of the judges of the court of appeals qualified to make a court for deciding the ſame, ſuch cauſe ſhall be reſumed by the court of appeals, and be determined there, as if ſuch cauſe had never been committed to a ſpecial court. *(d)*

IX. Each judge attending in conſequence of ſuch ſummons, ſhall in open court take an oath to do his duty as a judge of appeals, in the caſe or caſes on which he is ſummoned, impartially and truly, without favor or affection, which oath ſhall be adminiſtered by the eldeſt ſitting judge, and ſhall then be adminiſtered to him, if he ſhall not before have qualified as a judge of the court of appeals by one other of the judges. *(e)*

X. Each judge attending in conſequence of ſuch ſummons, and not diſqualified as aforeſaid, ſhall be allowed for his attendance three dollars and thirty-three cents per day, and for travelling to and from the place of ſeſſion, two dollars for every twenty miles: And the judges of the court of appeals, attending ſuch ſpecial court, and not diſqualified to ſit therein, ſhall be paid the ſame allowance. *(f)*

XI. The court of appeals ſhall appoint a clerk, tipſtaff, and cryer, the firſt removable for miſbehaviour, in the manner directed by the conſtitution, the two others at pleaſure; and ſhall be attended by the ſheriff of the county in which they ſit, as their officer. *(g)*

XII. If a vacancy ſhall happen in the office of clerk out of the terms of the ſaid court, it ſhall be lawful for a majority of the judges, by commiſſion under their hands and ſeals, to appoint a clerk to fill ſuch vacancy. *(h)*

XIII. The clerk of the ſaid court ſhall carefully preſerve the tranſcripts of records certified to his court with the bonds for proſecution, and all papers relative to them, and other ſuits dependieg therein, docketing them in the order he ſhall receive them, that they may be heard in the ſame courſe, unleſs the court, for good cauſe to them ſhewn, direct any to be heard out of its turn, and ſhall faithfully record their proceedings and deciſions, and certify the ſame to the proper courts.

(a) 1789. c. 18 – & 1791. c. 11. *(b)* 1789. c. 18. § 9—& 1791. c. 11. *(c)* 1791. c. 11. § 5 & 6. *(d)* 1791. c. 11. § 7. *(e)* 1790. c. 7. § 3 *(f)* 1789. c. 18—& 1791. c. 11. § 3. *(g)* May, 1779. c. 22. *(h)* 1788. c. 68. § 8.

XIV. Appeals, writs of error, and ſuperſedeas, may be granted, heard and determined by the court of appeals, to and from any final decree or judgment of the high court of chancery, general court and diſtrict courts, in the ſame manner, and on the ſame principles as appeals, writs of error, and ſuperſedeas, are to be granted, heard and determined by the high court of chancery, and diſtrict courts, to and from any final decree or judgment of a county, city, or borough court, and the party ſhall proceed in like manner, and the damages in caſe of affirmance ſhall be the ſame in the court of appeals, as in thoſe courts reſpectively; and the clerk of the ſaid court ſhall iſſue the like proceſs for ſummoning the adverſe party, removing the records, ſuſpending the execution, and for every other requiſite purpoſe, making thoſe alterations in the form, which are neceſſary to adapt it to the caſe, as are preſcribed in the like caſes in the high court of chancery, and the diſtrict courts, reſpectively. *(a)*

XV. Writs of ſuperſedeas may be granted by any judge of the court of appeals during vacation, the party deſiring to obtain the ſame, proceeding in like manner as in the caſe of a ſuperſedeas to be granted by a judge of the diſtrict courts, to a judgment of the county court. *(b)*

XVI. Where one perſon or ſeveral obtain an appeal, writ of error, or ſuperſedeas, bond and ſecurity given by any party, or by any reſponſible perſon, ſhall be valid and ſufficient. *(c)*

XVII. Whenſoever any appeal, writ of error, or ſuperſedeas, ſhall be granted, and a tranſcript of the record be not ſent to the court on or before the ſecond term of the court of appeals, after the ſame ſhall have been granted, ſuch appeal, writ of error, or ſuperſedeas, ſhall be diſmiſſed, unleſs good cauſe be ſhewn to the contrary. *(d)*

XVIII. After the diſmiſſion of an appeal, writ of error, or ſuperſedeas, in the court of appeals, no appeal, writ of error, nor ſuperſedeas ſhall be allowed. *(e)*

XIX. A clear and conciſe ſtate of the caſe of each party in an appeal, writ of error, or ſuperſedeas, with the points intended to be inſiſted on, ſigned by his counſel and printed, the expenſe whereof ſhall be taxed in the bill of coſts, ſhall be delivered to every judge time enough before the hearing, for his conſideration; but the court if this be neglected, may nevertheleſs hear and determine the matter, and may give ſuch decree or judgment, if it be not affirmed or reverſed in the whole, as the court whoſe error is ſought to be corrected ought to have given, (affirming on thoſe caſes where the voices on both ſides ſhall be equal, with an allowance of the coſts of appeal to the party prevailing) to be certified to the court from which the matter was removed, who ſhall enter it as their own, and award execution thereupon accordingly. *(f)*

XX. It ſhall not be lawful for the high court of chancery, or general court, to remove before the court of appeals, by adjournment, any queſtion, matter, or thing, whatſoever. *(g)*

XXI. The judges of the court of appeals ſhall direct the form of writs from time to time in ſuch manner as ſhall ſeem adviſable. *(h)*

The repealing clauſe is as in the appendix No. 11.

HIGH COURT OF CHANCERY.

November the 29th, 1792.

§ I. THE high court of chancery ſhall conſiſt of one judge, to be choſen and commiſſioned in the manner directed by the conſtitution of this commonwealth.

II. The ſaid court ſhall be holden at the capitol in the city of Richmond, or at ſuch other place as ſhall be appointed by the general aſſembly, or in their receſs by the gover-

(a) 1788. c. 68. § 12. *(b)* 1789. c. 13. § 18. *(c)* 1788. c. 67. § 92.—& c. 68. § 10. *(d)* 1789. c. 18. § 12. *(e)* 1789. c. 18. § 15. *(f)* May, 1779. c. 22. *(g)* 1789. c. 18. § 1. *(h)* 1788. c. 67. § 22.

nor, with the advice of the council of ſtate, on any ſuch emergency, as will make the adjournment lawful. *(a)*

III. The ſaid court ſhall be holden three times in every year, namely, on the firſt day of March, on the twelfth day of May, and on the tenth day of September; but if either of thoſe days happen on a Sunday, on the day following. The ſeſſion in March ſhall continue eighteen, and the ſeſſions in May and September twenty-four juridical days ſucceſſively, unleſs the buſineſs depending before the ſaid court ſhall be ſooner diſpatched. *(b)*

IV. If the judge ſhall not attend on the firſt day of the term, ſuch court ſhall ſtand adjourned from day to day until a court be made, if that ſhall happen before four o'clock in the afternoon of the ſixth day. *(c)*

V. If a court ſhall not ſit in any term, or ſhall not continue to ſit the whole term, or before the end of the term ſhall not have heard and determined all matters ready for its deciſion, all ſuits, matters, and things depending in court and undecided, ſhall ſtand continued to the next ſucceeding term. If from any cauſe the court ſhall not ſit on any day of the term after it ſhall have been opened, there ſhall be no diſcontinuance; but ſo ſoon as the cauſe is removed, the court ſhall proceed to buſineſs until the end of the term, if the buſineſs depending before it be not ſooner diſcharged. *(c)*

VI. Every perſon ſo commiſſioned before he enters upon the duties of his office, ſhall take and ſubſcribe the oath of fidelity to this commonwealth, and take the following oath:

"You ſhall ſwear that well and truly you will ſerve this commonwealth in the office of "judge of the high court of chancery, and that you will do equal right to all manner of peo- "ple, great and ſmall, high and low, rich and poor, according to equity and good conſcience, "and the laws and uſages of Virginia, without reſpect of perſons. You ſhall not take by your- "ſelf, or by any other, any gift fee, or reward of gold, ſilver, or any other thing, directly "or indirectly, of any perſon or perſons, great or ſmall, for any matter done or to be "done, by virtue of your office, except ſuch fees or ſalary, as ſhall be by law appoint- "ed. You ſhall not maintain by yourſelf or by any other, privily or openly, any plea "or quarrel, depending in the courts of this commonwealth. You ſhall not delay any per- "ſon of right for the letters or requeſt of any perſon, nor for any other cauſe; and if any "letter or requeſt come to you contrary to law, you ſhall nothing do for ſuch letter or "requeſt, but you ſhall proceed to do the law, any ſuch letter or requeſt notwithſtanding. "And finally in all things belonging to your ſaid office, during your continuance therein, "you ſhall faithfully, juſtly, and truly, according to the beſt of your ſkill and judgment, "do equal and impartial juſtice, without fraud, favor, affection or partiality." So help you God.

Such oath ſhall be taken before the executive, and a certificate recorded in the ſaid court *(d)*

VII. If any perſon ſhall preſume to execute the ſaid office, without having taken the ſaid oaths, he ſhall forfeit and pay the ſum of fifteen hundred dollars for his ſaid offence. *(e)*

VIII. The ſaid court ſhall have general juriſdiction over all perſons, and in all cauſes in chancery, now pending therein, or which may hereafter be brought before it, whether by original proceſs, appeal from any inferior court, certiorari, or other legal means, and alſo in ſuch other caſes, as by any ſtatute, are, or ſhall be made cognizable therein: But no perſon ſhall commence an original ſuit in any matter of leſs value than thirty-three dollars and thirty-three cents, except it be againſt the juſtices of any county or other inferior court, on pain of having the ſame diſmiſſed with coſts. *(e)*

IX. The ſaid court ſhall be conſidered as always open, ſo as to grant injunction, writs of ne exeat, certiorari, and other proceſs heretofore uſually granted in vacation. *(e)*

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(a) 1789. c. 69. *(b)* 1790. c. 12, & 1791. c. 12. *(c)* 1788. c. 69. *(d)* Oct. 1777. c. 15 § 1. *(e)* Oct. 1777. c. 15 § 2.

X. The ſaid court ſhall have power to appoint a clerk, who ſhall hold his office during good behaviour, and be entitled to ſuch fees or ſalary as the legiſlature may appoint, as alſo a ſerjeant at arms: And in caſe of a vacancy, in the receſs of the ſaid court, the ſaid judge may make the like appointments under his hand and ſeal, during a vacation; and ſuch ſucceeding clerk or ſerjeant, having, in any court of record, taken the oaths required by law, ſhall exerciſe the ſame power, perform the ſame duties, and be entitled to the ſame fees and profits, as if he had been appointed in term time. *(a)*

XI. It ſhall be lawful for the high court of chancery to ſend any matter of law to the general court, for their opinion to be certified thereupon. *(b)*

XII. Although any of the defendants, whether debtors or others, in any ſuit inſtituted in the ſaid court, ſhall be abſent from the commonwealth, the court may nevertheleſs proceed to a hearing and decree therein, as in the caſe of abſent debtors having effects within the commonwealth. *(c)*

XIII. The ſaid court in its diſcretion, may direct an iſſue to be tried, whenever it ſhall be judged neceſſary, either in that court, or in any other court whatſoever, as juſtice or convenience to the parties may require, and in all other caſes the mode of trial ſhall be the ſame as hath been heretofore uſed and practiſed in the courts of chancery in Virginia. *(d)*

XIV. If a majority of the judges of the general court be intereſted in any ſuit, which in the caſe of any other perſon would have been proper for the juriſdiction of ſuch court, it may be lawful to inſtitute ſuch ſuit in the high court of chancery, where proceedings ſhall be had conformably to the rules of the general court, and proceſs ſhall be returnable as the high court of chancery ſhall direct; and thereafter an appeal may be entered to the court of appeals. *(e)*

XV. It ſhall be lawful for the ſaid court to arrange the buſineſs thereof, in the moſt convenient and equitable manner. *(f)*

XVI. Any party thinking himſelf aggrieved by a decree of the court of a county, city, or borough, in chancery, and not having entered an appeal from the decree at the time it was pronounced, may appeal from ſuch decree at any time within one month after the decree pronounced, lodging for that purpoſe with the clerk of the high court of chancery, a copy of the proceedings in the ſuit, and a petition ſuggeſting error in the decree, ſigned by ſome counſel attending the high court of chancery, and alſo lodging with the petition a bond executed by the appellant or his agent, and a ſurety or ſureties with the like condition as is annexed to other appeal bonds, and affidavits, or ſolemn affirmations, verifying the ſufficiency of the ſureties; and the clerk ſhall thereupon iſſue a ſummons againſt the appellee, requiring him to appear and anſwer the ſaid petition and appeal, and ſhall alſo iſſue a ſuperſedeas, if neceſſary, to enjoin from proceeding in execution of the decree; and the court ſhall and may hear and determine the appeal in the ſame manner as if the appeal had been entered at the time the decree was pronounced. *(g)*

XVII. *Provided always*, That whenever an appeal is prayed for from any inferior court to the ſaid high court of chancery, or bond is given for the removal of any ſuit in chancery, in any manner whatſoever, it ſhall be ſufficient in either caſe, if the ſaid bond or bonds ſhall be executed by good and ſufficient ſecurities, although the appellant or party ſhall not execute the ſaid bond or bonds. *(h)*

XVIII. The ſaid court, or the judge thereof in vacation, ſhall have power, for good cauſe ſhewn, to allow a petition of appeal, and if neceſſary, order a ſuperſedeas to ſtop the execution of any decree pronounced by an inferior court, at any time within three years after pronouncing the ſame; the party praying ſuch appeal and ſuperſedeas, complying with the terms which the ſaid court or judge ſhall annex to ſuch order. *(h)*

XIX. All original proceſs to bring any perſon to anſwer any bill, petition or information in the ſaid court, and all ſubſequent proceſs thereupon, ſhall be iſſued and ſigned by

(a) Oct. 1777. c. 15. § 2. *(b)* 1788. c. 69. *(c)* 1787. c. 9. *(d)* Oct. 1783. c. 3. § 23. *(e)* 1788. c. 67. § 131. *(f)* 1788. c. 69. *(g)* May 1788. c. 7. § 3. *(h)* 1787. c. 9.

the clerk in the name of the commonwealth, and bear teſte by the judge of the ſaid court; ſhall be returnable to the firſt or ſeventeenth days of the term, which ſhall be next after the ſuing out ſuch proceſs, and may be executed at any time before the return day thereof. And if any proceſs ſhall be executed ſo late that the ſheriff hath not reaſonable time to return the ſame before the day of appearance, and thereupon any ſubſequent proceſs ſhall be awarded, the ſheriff ſhall not execute ſuch ſubſequent proceſs, but ſhall return the firſt proceſs by him executed, on which there ſhall be the ſame proceedings as if it had been returned in due time. *(a)*

XX. All appeals from decrees in chancery, obtained in any inferior court, ſhall be made to the third day of the next term. *(a)*

XXI. In all ſuits in the ſaid court, the following rules and methods ſhall be obſerved: The complainant ſhall file his bill within one calendar month after the day of appearance, or may be ruled on the requiſition of the defendant to file ſuch bill, and if he fails to do ſo within one calendar month after ſuch rule, the ſuit may be diſmiſſed with coſts; and if he ſhall fail to file the ſame within three months after the ſubpœna ſhall be returned executed, the ſuit ſhall ſtand ipſo facto diſmiſſed with coſts. *(b)*

XXII. And upon the complainant's diſmiſſing his bill, or the defendant's diſmiſſing the ſame for want of proſecution, the complainant ſhall pay coſts, to be taxed by the clerk of the court; for which coſts, an attachment, or other proceſs of contempt, or an execution may iſſue, at the election of the defendant, returnable on any return day. *(c)*

XXIII. The complainant may amend his bill before the defendant or his attorney hath taken out a copy thereof, or in a ſmall matter afterwards, without paying coſts; but if he amend in a material point after ſuch copy obtained, he ſhall pay the defendant all coſts occaſioned thereby. *(d)*

XXIV. If the defendant ſhall not appear on the day of appearance, (which in all caſes ſhall be the ſecond day after the term to which the ſubpœna is returnable) an attachment ſhall be awarded and iſſued againſt him, returnable to the next term, which being returned executed, if the defendant doth not appear, or being brought into court upon any ſuch proceſs, ſhall obſtinately refuſe to anſwer, the complainant's bill ſhall be taken as confeſſed, and the matter thereof decreed accordingly. *(e)*

XXV. The defendant within three calendar months after his appearance and bill filed, ſhall put in his anſwer to be filed with the clerk in the office, at the expiration of which time, if no anſwer be filed, the clerk upon requeſt, ſhall iſſue an attachment, returnable to the next court; and if no anſwer be filed upon the return of ſuch attachment executed, or a copy thereof left at the defendant's uſual place of abode, or laſt place of reſidence, the complainant's bill ſhall be taken as confeſſed, and the matter thereof decreed; and if the attachment be returned not executed, an attachment with proclamation, and ſuch ſubſequent proceſs of contempt may iſſue as was heretofore iſſuable out of the general court ſitting in chancery in like caſes. *(f)*

XXVI. No proceſs of contempt ſhall iſſue unleſs the ſubpœna be returned ſerved by a ſworn officer, or affidavit be made of the ſervice thereof. *(g)*

XXVII. Every defendant may ſwear to his anſwer before any judge of this or of the general court, or any juſtice of the peace. *(h)*

XXVIII. If the defendant does not file his anſwer within three months after the plaintiff ſhall have filed his bill, having alſo been ſerved with the ſubpœna at leaſt three months before the ſaid time for filing his anſwer, the plaintiff may have a general commiſſion to take depoſitions, or he may move the court to bring in the defendant to anſwer interrogatories, at his election, and proceed on to hearing in the two laſt caſes, as if the anſwer had been filed, and the cauſe was at iſſue: *Provided*, That the court for good cauſe ſhewn, may allow the anſwer to be filed, and grant a further day for ſuch hearing. *(i)*

XXIX. After anſwer filed, and no plea in abatement to the juriſdiction of the court,

(a) Oct. 1777. c. 15. § 2. *(b)* Oct. 1777. c. 15. § 3. *(c)* Oct. 1777. c. 15. § 4. *(d)* Oct. 1777. c. 15. § 5. *(e)* Oct. 1777. c. 15. § 6. *(f)* Oct. 1777. c. 15. § 7. *(g)* Oct. 1777. c. 15. § 8. *(h)* Oct. 1777. c. 15. § 9. *(i)* 1789. c. 9. § 2.

no exception for want of jurisdiction shall ever afterwards be made, nor shall the high court of chancery, or any other court, ever thereafter delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such court, and also of infants and femes covert. (*a*)

XXX. When a cross bill shall be exhibited, the defendant or defendants to the first bill shall answer thereto, before the defendant or defendants to the cross bill shall be compelled to answer such cross bill. (*b*)

XXXI. The complainant shall reply, or file exceptions within two calendar months after the answer shall have been put in. If he fails so to do, the defendant may give a rule to reply with the clerk of the court, which being expired, and no replications or exceptions filed, the suit shall be dismissed with costs; but the court may order the same to be retained if they see cause, on payment of costs. (*c*)

XXXII. If the complainant's attorney shall except against any answer as insufficient, he may file his exceptions, and give a rule with the clerk to make a better answer within two calendar months, and if within that time the defendant shall put in a sufficient answer, the same shall be received without costs; but if any defendant insists on the sufficiency of his answer, or neglects or refuses to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions to be argued the next term in court, and after the expiration of such rule, or any second insufficient answer put in, no farther or other answer shall be received but upon payment of costs. (*d*)

XXXIII. If upon argument the complainant's exceptions shall be over-ruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, such costs as shall be allowed by the Court. (*e*)

XXXIV. UPON a second answer adjudged insufficient, costs shall be doubled. (*f*)

XXXV. IF a defendant shall put in a third insufficient answer, which shall be so adjudged, he or or she may be examined upon interrogatories, and committed until he or she shall answer them, and pay costs. (*g*)

XXXVI. IF the defendant, after process of contempt, put in an insufficient answer, which shall be so judged, the pomplainant may go on with the subsequent process of contempt as if no answer had been put in. (*h*)

XXXVII. Rules to plead, answer, reply, rejoin, or other proceedings not before particularly mentioned, when necessary, shall be given from month to month with the clerk in his office, and shall be entered in a rule book for the information of all parties, attornies, or solicitors, concerned therein. (*i*)

XXXVIII. No defendant shall be admitted to put in a rejoinder, unless it be filed on or before the expiration of the rule to rejoin, but the complainant may proceed to set his cause down for hearing. (*k*)

XXXIX. After an attachment with proclamation returned, no plea or demurrer shall be received, unless by an order of court, upon motion. (*l*)

XL. If the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down with the clerk to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to trial by jury, as has been heretofore used in other causes in chancery, where trial hath been by jury: And if thereupon the plea shall be found false, the complainant shall have the same advantages as if it had been so found by verdict at common law. (*m*)

XLI. If a plea or demurrer be over-ruled, no other plea or demurrer shall be thereafter received, but the defendant shall answer the allegations of the bill. (*n*)

XLII. If the complainant shall not proceed to reply to, or set for hearing as beforementioned, any plea or demurrer before the second court after filing the same, the bill may be dismissed of course with costs. (*o*)

(*a*) 1789. c. 9. § 2. (*b*) Oct. 1777 c. 15 § 10. (*c*) Oct. 1777. c. 15. § 11. (*d*) Oct. 1777. c. 15. § 12. (*e*) Oct. 1777. c. 15. § 13. (*f*) Oct. 1777. c. 15. § 14. (*g*) Oct. 1777. c. 15. § 15. (*h*) Oct. 1777. c. 15. § 16, (*i*) Oct. 1777. c. 15. § 17. (*k*) Oct. 1777. c. 15. § 18. (*l*) Oct. 1777. c. 15. § 19. (*m*) Oct. 1777. c. 15. § 20. (*n*) Oct. 1777. c. 15. § 21. (*o*) Oct. 1777. c. 15. § 22.

XLIII. Upon a plea or demurrer argued and over-ruled, coſts ſhall be paid as where an anſwer is judged inſufficient, and the defendant ſhall anſwer within two calendar months after, but if adjudged good, the defendant ſhall have his coſts. (*a*)

XLIV. If any defendant, after a demurrer ſhall have been over-ruled, ſhall refuſe to anſwer, the bill ſhall be taken as confeſſed, and the matter thereof decreed. (*b*)

XLV. After any bill filed, and before the defendant hath anſwered, upon oath made that any of the complainant's witneſſes are aged, and infirm, or going out of the country, the clerk may iſſue a commiſſion for taking the examination of ſuch witneſſes de bene eſſe; the party praying ſuch commiſſion, giving reaſonable notice to the adverſe party, of the time and place of taking the depoſitions. (*c*)

XLVI. Whenever a general commiſſion ſhall iſſue for taking depoſitions upon anſwer and replication, ſix months from the time of the replication ſhall be allowed the parties for taking their depoſitions, and either party at the expiration of the ſaid ſix months may ſet the ſame for hearing, nor ſhall any depoſition taken after that time be read as evidence on the hearing, except the ſame was taken by conſent of the parties, by ſpecial order of court, or out of the ſtate. (*d*)

XLVII. The court in their ſittings may regulate all proceedings in the office, and for good cauſe ſhewn, may ſet aſide any diſmiſſions, and re-inſtate the ſuits on ſuch terms as ſhall appear equitable. (*e*)

XLVIII. For prevention of errors in entering up the decrees and orders of the court, the proceedings of every day ſhall be drawn up at large by the clerk, and read in open court the next day, (except thoſe of the laſt day of each term, which ſhall be drawn up, read, and corrected the ſame day) and any neceſſary corrections made therein, when they ſhall be ſigned by the judge of the court, and preſerved among the records. (*f*)

XLIX. And for the more entire and better preſervation of the records of the court, when any cauſe ſhall be finally determined, the clerk ſhall enter all the pleadings therein, and other matters relating thereto together in a book to be kept for that purpoſe, ſo that an entire and perfect record may be made thereof, and thoſe wherein the title to lands is determined, ſhall be entered in ſeparate books to be kept for that purpoſe only. (*g*)

L. The court in ſeſſion, or the judge in vacation, may grant writs of certiorari, for removing before the ſaid court the proceedings in any ſuit in chancery, depending in any county or other inferior court, writs of ne exeat to prevent the departure of any defendant out of the country, until ſecurity be given for performing the decree, and writs of injunction to ſtay execution of judgments obtained in any of the courts of common law, ſubject nevertheleſs to the rules following: (*h*)

LI. No writ of certiorari ſhall be granted to remove any ſuit, unleſs the matter in diſpute be of value ſufficient to entitle the high court of chancery to original juriſdiction therein, nor unleſs ten days notice of the motion be given in writing to the adverſe party, nor in vacation but upon ſuch petition and affidavit as are by law directed for writs of certiorari to be granted by the diſtrict courts; and in all caſes, bond and ſecurity ſhall be given for performing the decree of the ſaid high court of chancery, before the iſſuing of the certiorari. (*i*)

LII. Writs of ne exeat ſhall not be granted but upon a bill filed and affidavits made to the truth of its allegations, which being produced to the court in term time, or the judge in vacation, ſuch writ may be granted or refuſed as ſhall ſeem juſt; and if granted, he ſhall direct to be endorſed thereon in what penalty, bond and ſecurity ſhall be required of the defendant. (*k*)

LIII. If the defendant ſhall by anſwer ſatisfy the court that there is no reaſon for his reſtraint, or give ſufficient ſecurity to perform the decree, the writ may be diſcharged. (*l*)

LIV. No injunction ſhall be granted to ſtay proceedings in any ſuit at law, unleſs the

(*a*) Oct. 1777. c. 15. § 23. (*b*) Oct. 1777. c. 15. § 24. (*c*) Oct. 1777. c. 15 § 25. (*d*) 1787. c 9. § 2. (*e*) Oct. 1777. c. 15. § 28. (*f*) Oct. 1777. c. 15. § 29. (*g*) Oct. 1777. c. 15. § 30. (*h*) Oct. 1777. c. 15. § 31. (*i*) Oct. 1777. c. 15. § 32. (*k*) Oct. 1777. c. 15. § 33. (*l*) Oct. 1777. c. 15. § 34.

matter in diſpute be of value ſufficient to admit of original juriſdiction in the ſaid high court of chancery, nor unleſs the court in term time, or the judge thereof in vacation, ſhall be ſatisfied of the plaintiff's equity, either by affidavit, certified at the foot of the bill, that the allegations thereof are true, or by other means, and ſhall order the ſame. (*a*)

LV. Where any injunction ſhall be granted, the clerk ſhall endorſe on the ſubpœna that the effect thereof is to be ſuſpended, until the party obtaining the ſame ſhall give bond with ſufficient ſecurity in the office of the court in which the judgment to be enjoined ſhall have been obtained. (*b*)

LVI. The party obtaining the injunction ſhall then enter into bond with ſufficient ſecurity, and file the ſame in the clerk's office of that court in which the proceedings at law were had, for paying all money and tobacco and coſts due, or to become due to the plaintiff in the action at law, and alſo all ſuch coſts as ſhall be awarded againſt him or her in caſe the injunction ſhall be diſſolved; and the clerk ſhall endorſe on the ſubpœna that the bond is filed. (*b*)

LVII. It ſhall be lawful for the high court of chancery in ſuch caſes as may require a report, which cannot be performed without great delay to other buſineſs, to employ one or more commiſſioners, and to cauſe a reaſonable allowance to be taxed in the bill of coſts. (*c*)

LVIII. If any defendant or defendants ſhall be in cuſtody upon any proceſs of contempt, and be brought into court by virtue of a writ of habeas corpus, or other proceſs, and ſhall refuſe or neglect to enter his or her appearance according to the rules of the court, or appoint an attorney of the court to do the ſame for him, the court in ſuch caſe may direct an attorney to enter an appearance for the defendant or defendants, and thereupon ſuch proceedings may be had as if he or they had actually entered an appearance; but if ſuch defendant or defendants ſhall be in cuſtody at the time a decree ſhall be made upon refuſal or neglect to enter an appearance, or to appoint an attorney as aforeſaid, or ſhall be forth coming ſo as to be ſerved with a copy of the decree, then ſuch defendant or defendants ſhall be ſerved with ſuch copy before any proceſs ſhall be taken out to compel the performance thereof, and if ſuch defendant or defendants ſhall die in cuſtody before ſuch ſervice, then his heir, if any real eſtate be ſequeſtered or affected by ſuch decree, or if only perſonal eſtate, his executor or adminiſtrator ſhall be ſerved with a copy in a reaſonable time after ſuch death ſhall be known to the plaintiff, and who is ſuch heir, executor, or adminiſtrator. (*d*)

LIX. Whereas many perſons againſt whom decrees may have been rendered in the high court of chancery, may deſire to appeal from ſuch decrees, but have been hindered from doing ſo, at the term in which the ſaid decrees were pronounced: *Be it enacted*, That if upon a petition to any judge of the court of appeals, or the judge of the high court of chancery in vacation next after the term, when ſuch decree ſhall have been rendered, for relief in ſuch a caſe, it ſhall appear to his ſatisfaction, that the failure to appeal from his decree, at the time, or during the term when it was pronounced, did not ariſe from any culpable neglect in the petitioner, or that upon the whole circumſtances of the caſe, the petitioner ought to have the benefit of an appeal, it ſhall be lawful for the ſaid judge to grant the ſaid appeal, which grant of appeal, ſhall be as effectual, both for ſtaying proceedings on the ſaid decree, and for bringing the ſame before the court of appeals for their deciſion, as if the ſame had been duly made during the term when the ſaid decree was pronounced.

LX. And whereas upon bills of review in the ſaid high court of chancery, the judge of the ſaid court may think it reaſonable, during the pendency of ſuch bills, or until cauſe ſhall be ſhewn to the contrary, to ſtay proceedings on the decree, which ſuch bills are intended to review: *Be it enacted*, That in ſuch caſe, the judge of the ſaid high court of chancery, either in term time or in vacation, when a bill praying a review of the proceedings in which a decree ſhall have been pronounced by the ſaid court, ſhall be preſented.

(*a*) Oct. 1777. c. 15. § 35. (*b*) 1787. c. 9. § 4. (*c*) 1788. c 69. (*d*) Oct. 1777. c. 15. § 38.

to him, may upon ſuch bill, and the circumſtances of the caſe, as the ſame ſhall appear ſatisfactory to him, direct proceedings on ſuch decree to be ſtayed, until a decree on the ſaid bill of review ſhall be made, or util the further order of the ſaid judge; or the ſaid judge may refuſe to grant a ſtay of proceedings in that caſe, as to him ſhall ſeem right. *Provided*, That the ſaid judge of the high court of chancery ſhall in either of the ſaid caſes direct ſuch ſecurity to be given, and in ſuch place as is uſual in the caſes of appeal and injunction, or ſuch other ſecurity as to him ſhall ſeem to be reaſonable.

The repealing clauſe is as in the appendix No. 10.

November the 29th, 1794.

§ I. WHENSOEVER any perſon or perſons, body politic or corporate, ſhall think himſelf or themſelves aggrieved by the decree or final order of any county or corporation court ſitting in chancery, in any ſuit or controverſy whatſoever, where the debt or other thing claimed or recovered, excluſive of coſts, ſhall be of the value of thirty-three dollars or three thouſand pounds of tobacco, or where lands, ſlaves, or other ſpecific property ſhall be the ſubject of the decree or final order, ſuch perſon or perſons, body politic or corporate, being a party defendant, may enter an appeal to the high court of chancery from ſuch decree or final order, and before granting any ſuch appeal, the party praying the ſame being a defendant, or ſome other reſponſible perſon, ſhall enter into bond with ſufficient ſecurity in a reaſonable penalty, with condition to ſatisfy and pay the amount recovered in the county or other court aforeſaid, and all coſts, and to perform in all things the ſaid decree or final order in caſe the ſame be affirmed

II. And in like manner and under the like regulations, an appeal may be prayed and granted unto a defendant from any decree or final order of the high court of chancery unto the court of appeals, where the debt or other thing claimed or recovered, excluſive of coſts, ſhall be of the value of one hundred dollars or three thouſand pounds of tobacco, or where land, ſlaves, or other ſpecific property ſhall be the ſubject of the decree or final order.

III. This act ſhall commence and be in force from the paſſing thereof, but ſhall not be conſtrued to extend to any appeals heretofore allowed and granted.

December the 26th, 1795—but commenced in force January the 1ſt, 1796.

THE ſalary of the judge of the high court of chancery, ſhall, and is hereby declared to be, after and at the rate of ſixteen hundred ſixty-ſix dollars, and ſixty-ſeven cents per annum, payable in the like manner and proportions, as the ſalary heretofore allowed to the chancellor has been paid.

GENERAL COURT.

December the 23d, 1788.

§ I. IN conſideration of the additional ſervices to be performed by the judges of the general court, as judges of the diſtrict courts, they ſhall receive (excluſive of their ſalaries eſtabliſhed by law) each the ſum of ſix pence per mile, for travelling to and from the courts of their reſpective circuits.

II. The treaſurer ſhall half yearly advance to each of the ſaid judges upon the allowance hereby made to them, a ſum for travelling expences, not exceeding twenty-five pounds, to be accounted for by them reſpectively.

December the 13th, 1792.

§ I. THE general court of this commonwealth ſhall conſiſt of ten judges, to be choſen and commiſſioned in the manner directed by the conſtitution of the commonwealth. Any three of the ſaid judges ſhall conſtitute a court, except in caſes of impeach-

ment, on which occaſion a majority of the whole number ſhall be neceſſary. The ſaid court ſhall be holden at the capitol in the city of Richmond, or at ſuch other place as ſhall be appointed by the general aſſembly, or in their receſs, by the governor, with the advice of the council of ſtate, on any ſuch emergency as will make the adjournment lawful. The ſaid court ſhall be holden twice in every year, namely, on the ninth day of June and the ninth day of November, or if either of thoſe days ſhall be Sunday, then on the ſucceeding day, and ſhall continue their ſeſſion for ſixteen juridical days at each term, unleſs the buſineſs before them be ſooner diſpatched. If a ſufficient number of judges ſhould not attend on the firſt day of any term, or on any other day during the term, any one of the ſaid judges may adjourn the court from day to day for ſix days ſucceſſively, and if a ſufficient number ſhould not be then able to attend, all ſuits depending in ſuch court, ſhall ſtand continued over to the next ſucceeding term. Every perſon ſo commiſſioned before he enters upon the duties of his office, ſhall take and ſubſcribe the oath of fidelity to the commonwealth, and take the following oath of office, to wit:

"You ſhall ſwear, that well and truly you will ſerve this commonwealth in the office of a "judge of the general court, and that you will do equal right to all manner of people, great "and ſmall, high and low, rich and poor, according to law, without reſpect of perſons. You "ſhall not take by yourſelf, or by any other, privily or openly, any gift, fee, or reward of "gold, ſilver, or any other thing directly, or indirectly, of any perſon or perſons, great or "ſmall, for any matter done or to be done, by virtue of your office, except ſuch fees or ſalary, "as ſhall be by law appointed. You ſhall not maintain by yourſelf, or other, privily or open-"ly, any plea or quarrel, depending in the courts of this commonwealth. You ſhall not de-"ny or delay any perſon of common right, for the letters or requeſt of any perſon, nor for any "other cauſe; and if any letter or requeſt come to you contrary to the law, you ſhall noth-"ing do for ſuch letter or requeſt, but you ſhall proceed to do the law, any ſuch letter or re-"queſt notwithſtanding; and finally, in all things belonging to your ſaid office, during your "continuance therein, you ſhall faithfully, juſtly, and truly, according to the beſt of your "ſkill and judgment, do equal and impartial juſtice, without fraud, favor, affection, or parti-"ality." So help you God.

Which oaths may be taken before the executive, any court of record, or a juſtice of the peace, and a certificate thereof being obtained, ſhall enable ſuch judge to do all the duties of his office, and ſuch certificate ſhall be recorded in the general court, or diſtrict court, where ſuch judge ſhall firſt ſit. If any perſon ſhall preſume to ſit in court or execute the ſaid office, without having taken the ſaid oaths, he ſhall, for ſuch offence forfeit the ſum of fifteen hundred dollars. (a)

II. The ſaid court ſhall appoint a clerk, one or more aſſiſtant clerks, if neceſſary, a cryer and tipſtaff, the firſt removable for miſbehaviour in the manner directed by the conſtitution, the others at pleaſure, who ſhall be entitled to ſuch fees or ſalaries as ſhall be eſtabliſhed by law. And the ſheriff, or ſo many of the under-ſheriffs as ſhall be thought neceſſary, of the county where ſuch court may be held, ſhall attend the ſaid court during their ſeſſions. (b)

III. The juriſdiction of the ſaid court ſhall be general over all cauſes, matters, and things at common law, as well criminal as civil, except in ſuch caſes, as by the conſtitution of the United States of America, or of this commonwealth, or any ſtatute made by the congreſs of the ſaid United States, or the general aſſembly of this commonwealth, are or ſhall be veſted in any other tribunal; in any of which caſes the juriſdiction of the general court ſhall ceaſe, unleſs concurrent juriſdiction be thereto expreſſly given by this act, or ſome other ſtatute. The ſaid court ſhall have juriſdiction in all cauſes, matters, and things therein depending at the commencement of this act; and no diſcontinuance ſhall take place in any caſe whatſoever, by reaſon of the paſſing of this act. The ſaid

(a) Oct. 1777. c. 17. § 2. (b) Oct. 1777. c. 17. § 6.

court ſhall continue to have juriſdiction, in all caſes, ſuits and motions againſt public debtors and public defaulters of every denomination, for and in behalf of the commonwealth. If the judge of the high court of chancery ſhall be intereſted in any matter, which in the caſe of any other perſon would have been proper for the juriſdiction of ſuch court, it ſhall be lawful to inſtitute ſuch ſuit in the general court, where proceedings ſhall be had conformably to the principles and uſages of equity; and proceſs ſhall be returnable as the general court ſhall direct; and thereafter an appeal may be had to the court of appeals. Writs of ſcire facias may be iſſued from, and be tried in the general court, upon all judgments which have been or ſhall be obtained therein; the ſaid court may fine ſheriffs, deputy-ſheriffs, or coroners, for not returning executions iſſued, or to be iſſued from the ſaid court, and enter up judgments againſt the ſaid officers, for all money or tobacco, for which they have made or ſhall make themſelves reſpectively liable by law upon ſuch executions; may award executions upon replevy bonds, or bonds to have goods forthcoming at the day of ſale; may quaſh executions if illegally or improvidently iſſued or executed, and award new ones; and finally, may exerciſe full juriſdiction in every other legal mode neceſſary for carrying into complete execution, all judgments heretofore given, or hereafter to be given in the ſaid courts; any law to the contrary, or ſeeming to the contrary, notwithſtanding. The ſaid court ſhall have power to hear and determine upon all errors in matters of fact, that ſhall or may have happened in the proceedings depending in the ſaid court.

IV. The ſaid court ſhall have power to iſſue writs of mandamus to the diſtrict courts. *(a)*

V. The ſaid court ſhall likewiſe have juriſdiction to hear and determine motions againſt the delinquent ſubſcribers of the Patowmac and James river companies, and for ſecurities againſt their principals; and for ſheriffs againſt their deputies and ſecurities, or either of them.

VI. For good cauſe ſhewn, the general court may direct the trial of any cauſe depending before a diſtrict court, to be had by a jury at their own bar, for which purpoſe the ſheriff, or any other officer attending them, ſhall ſummon a jury qualified as the law now directs in caſes of juries in the general court; or may cauſe a ſuit depending in one diſtrict to be tried in another. *(b)*

VII. Unleſs good cauſe be ſhewn to the contrary, the general court ſhall direct a ſuit depending before a diſtrict court, in which a judge of the general court is a party, to be removed to be tried at the bar of the general court.

VIII. The general court ſhall have juriſdiction and authority to hear and determine all cauſes, matters, ſuits, and controverſies teſtamentary, which ſhall be brought before the ſame, and to examine and take the proofs of wills, and to hear and determine the right of adminiſtration of the eſtates of perſons dying inteſtate, and to do all other things concerning wills and adminiſtrations, according to law. *(c)*

IX. The ſaid court ſhall have power and authority to receive probat of all deeds whatſoever, concerning lands in any part of this commonwealth, to iſſue commiſſions for the privy examination of any feme covert, and to admit the ſame to record, as alſo to receive proof of any other deed or inſtrument of writing whatſoever, and to admit the ſame to record therein, if they ſhall be of opinion that the ſame is proper to be done. A deed for lands now or at any time hereafter partly proved in the general court, may either be fully proved there, or ſhall be delivered by the clerk thereof to any perſon authoriſed to demand the ſame, with an endorſement of the proof made, and it may be fully proved and recorded in the court of the diſtrict or county in which the lands lie.

X. If a queſtion of law in any criminal caſe be adjourned to the general court by any diſtrict court, the ſame may be therein argued and determined, although ſuch criminal be not preſent.

(a) 1788. c. 67. § 117. *(b)* 1788. c. 67. § 117.—& 1789. c. 13. § 23. *(c)* 1789. c. 13. § 4.

XI. On the adjournment of any queſtion of law in any civil ſuit, the ſaid court ſhall hear, determine, and certify ſuch their determination on the ſame, to the court from whence the queſtion was adjourned; but no coſts ſhall be incurred on any adjourned queſtion.

XII. All original proceſs to bring any perſon or perſons to anſwer in any action or ſuit, information, bill or plaint, in the ſaid court, and all ſubſequent proceſs thereon, all attachments or other writs of what nature ſoever awarded by the ſaid court, ſhall be iſſued and ſigned by the clerk of the ſaid court in the name of the commonwealth, ſhall bear teſte by the clerk, and be returnable on the firſt day of the next ſucceeding court, except ſubpœnas for witneſſes; and all ſuch proceſs may be executed at any time before the return day, except in ſuch caſes wherein it is otherwiſe directed by law. *(a)*

XIII. The appearance day to all writs and proceſs awarded by the ſaid court, ſhall be according to the direction thereof.

XIV. The ſheriff for the time being of the county in which the general court ſhall be held, ſhall before every meeting of the general court, ſummon twenty-four freeholders of this commonwealth, qualified as the law directs for grand jurors, to appear at the ſucceeding general court on the firſt day thereof, which the ſheriff is hereby empowered to do, as well without his county as within the ſame, and the ſaid twenty-four men, or any ſixteen of them ſhall be a grand jury, who ſhall be ſworn to enquire of and preſent all offences againſt the commonwealth, which are cognizable in the ſaid court. And if an indictment ſhould be found or preſentment made of any ſuch offence, the like proceedings ſhall be thereupon had to bring the party accuſed before the court, as on indictments and preſentments in the diſtrict courts, having regard to the nature of the offence.

XV. The rules and proceedings in the general court, in all caſes, not otherwiſe ſpecially directed, ſhall be the ſame as in the diſtrict courts in ſimilar caſes, and the ſaid court ſhall have the ſame power of awarding and refuſing coſts, as the diſtrict courts have in like caſes.

XVI. The keeper of the public jail, ſhall conſtantly attend the general court, and execute the commands of the court.

XVII. The clerk of the general court ſhall annually before the laſt day of January, tranſmit to the ſheriff of each county within this commonwealth, a liſt of all fines impoſed by the ſaid court in the year next preceding, to the uſe of the commonwealth, on perſons reſiding in ſuch county, and the ſheriffs ſhall reſpectively proceed to collect, levy, account for, and pay the ſame in like manner, and ſubject to the ſame remedy and proceedings againſt them for default as is or ſhall be directed in caſe of public taxes, being allowed in their accounts for inſolvents, and five per centum commiſſion; and the ſaid clerk ſhall tranſmit copies of ſuch liſts to the auditor, to enable him to call the ſheriffs to account.

The repealing clauſe is as in the appendix No. 10.

DISTRICT COURTS.

December the 23d, 1788.

§ I. IN conſideration of the additional ſervices to be performed by the judges of the general court, as judges of the diſtrict courts, they ſhall receive (excluſive of their ſalaries eſtabliſhed by law) each the ſum of ſix pence per mile, for travelling to and from the courts of their reſpective circuits.

II. The treaſurer ſhall half yearly advance to each of the ſaid judges upon the allowance hereby made to them, a ſum for travelling expences, not exceeding twenty-five pounds, to be accounted for by them reſpectively.

(a) 08. 1777. c. 17. § 7—& 1788. c. 67. § 118

December the 12th, 1792—but commenced January 1, 1793.

THIS commonwealth ſhall be divided into diſtricts, and a ſuperior court holden in each, in the manner and at the times, and places herein after mentioned; that is to ſay:—The counties of Henrico, Hanover, Cheſterfield, Goochland, and Powhatan, ſhall compoſe one diſtrict, and a court ſhall be holden for the ſame at the capitol in the city of Richmond, on the firſt day of April, and the firſt day of September in every year; the counties of James City, Charles City, New-Kent, Surry, Glouceſter, Mathews, York, Warwick, and Elizabeth City, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at the city of Williamſburg, in the former capitol, on the twenty-ninth day of April, and the twenty-ninth day of September, in every year; the counties of Richmond, Weſtmoreland, Lancaſter, and Northumberland, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Northumberland courthouſe, on the firſt day of April, and firſt day of September, in every year; the counties of Eſſex, Middleſex, King and Queen, and King William, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at King and Queen courthouſe, on the fifteenth day of April, and fifteenth day of September, in every year; the counties of Spottſylvania, Caroline, King George, Stafford, Orange, and Culpeper, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Frederickſburg, on the twenty-ninth day of April, and the twenty-ninth day of September, in every year; the counties of Frederick, Berkeley, Hampſhire, Hardy, and Shenandoah, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Wincheſter, on the fifteenth day of April, and the firſt day of September, in every year; the counties of Auguſta, Bath, Rockbridge, Rockingham, and Pendleton, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Staunton, on the firſt day of April, and the firſt day of September, in every year; the counties of Albemarle, Louiſa, Fluvanna, and Amherſt, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Charlotteſville, on the fifteenth day of April, and the fifteenth day of September, in every year; the counties of Fairfax, Fauquier, Loudon, and Prince William, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Dumfries, on the twelfth day of May, and the twelfth day of October, in every year; the counties of Harriſon, Monongalia, Ohio, and Randolph, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Monongalia courthouſe, on the third day of May, and the twentieth day of September, in every year; the counties of Waſhington, Ruſſell, and Wythe, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Waſhington courthouſe, on the ſecond day of May, and the ſecond day of October, in every year; the counties of Norfolk, Iſle of Wight, Princeſs Anne, Nanſemond, and Southampton, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Suffolk, on the twelfth day of May, and the twelfth day of October, in every year; the counties of Prince George, Suſſex, Dinwiddie, Nottoway, and Amelia, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Peterſburg, on the fifteenth day of April, and the fifteenth day of September, in every year; the counties of Brunſwick, Greenſville, Lunenburg, and Mecklenburg, ſhall compoſe another diſtrict; and a court ſhall be holden for the ſame at Brunſwick courthouſe, on the twenty-ninth day of April, and the twenty-ninth day of September, in every year; the counties of Prince Edward, Buckingham, Charlotte, Halifax, and Cumberland, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Prince Edward courthouſe, on the firſt day of April, and the firſt day of September, in every year; the counties of Bedford, Campbell, Franklin, Pittſylvania, Patrick, and Henry, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at New London, in the late courthouſe of Bedford county, now belonging to James and John Callaway, who have agreed to put the ſame in repair, at their own expence, for the uſe of the diſtrict court, ſo to be holden at New-London, on the fifteenth day of April, and the fifteenth day of September, in every year; the counties of Accomack, and Northampton, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Accomack courthouſe, on the fourteenth day of May, and the

fourteenth day of October, in every year; the counties of Greenbrier, Botetourt, Montgomery, and Kanawha, ſhall compoſe another diſtrict, and a court ſhall be holden for the ſame at Lewiſburg in Greenbrier, and Botetourt courthouſe, alternately, on the eighteenth day of May, and the eighteenth day of October, in every year, until the proprietor of the Sweet Springs ſhall erect a ſufficient courthouſe and priſon for the purpoſes of this act, after which time the Sweet Springs ſhall become the ſeat of the diſtrict court. And if any of theſe ſeveral days be Sunday, the courts ſhall in that caſe reſpectively begin on the ſucceeding day. Each court ſhall ſit, if buſineſs require it, twelve days ſucceſſively, Sundays excluſive (unleſs ſuch ſitting ſhall interfere with ſome other diſtrict court in the ſame circuit) and no longer, and ſhall be a court of record.

II. Thoſe counties which ſhall hereafter be made, ſhall, if taken from one county, or from two or more counties lying in the ſame diſtrict, remain in the diſtrict to which they formerly belonged; and if taken from two or more counties lying in different diſtricts, the counties ſo to be made, ſhall be annexed (unleſs it be otherwiſe declared by the legiſlature) to ſuch of the diſtricts in which the old counties lie, as ſhall be approved by the executive, ſubject to the reviſion of the general aſſembly. *(a)*

III. It ſhall be the duty of two of the judges of the general court to attend each diſtrict court at their reſpective terms; and the ſaid two judges ſhall conſtitute a court for ſuch diſtrict. In caſe of a temporary appointment of a judge made by the executive, ſuch judge ſhall take the place of him in whoſe ſtead he was appointed: *Provided nevertheleſs*, That if any one of the ſaid judges ſhall not attend the court, to which he ſhall be ſo allotted, in ſuch caſe the other judge ſhall conſtitute a court, under the reſtrictions herein-after mentioned. *(b)*

IV. Each judge of the general court, beſides the oaths required by law to be taken by him as ſuch, ſhall take another oath as judge of the diſtrict courts, in the ſame form as that preſcribed by law for a judge of the general court, changing the words "general court," for "diſtrict courts;" which oaths may be taken before the executive, any court of record, or a juſtice of the peace, and a certificate thereof being obtained, ſhall enable him to do all the duties of office, and to act as a general conſervator of the peace throughout the commonwealth. Such certificate ſhall be recorded in the general court, or diſtrict court where ſuch judge ſhall firſt ſit. Any perſon appointed a judge of the general court may act as a judge of the diſtrict courts, without having taken the oaths as a judge of the general court. Any judge who ſhall ſit as a judge of a diſtrict court without having taken the oaths herein required to be taken by him, ſhall forfeit the ſum of fifteen hundred dollars, to be recovered by action of debt or information in any court of record, one half to the uſe of the commonwealth, and the other half to the uſe of the informer. *(c)*

V. If neither of the judges ſhall attend on the firſt day of any diſtrict court, ſuch court ſhall ſtand adjourned from day to day until a court ſhall be made, if that ſhall happen before four of the clock in the afternoon of the ſixth day. If a court ſhall not ſit in any term, or ſhall not continue to ſit the whole term, or before the end of the term ſhall not have heard and determined all matters ready for their deciſion, all ſuch ſuits and things depending in court and undecided, ſhall ſtand continued to the next ſucceeding term. If from any cauſe the court ſhall not ſit on any day in a term after it ſhall have been opened, there ſhall be no diſcontinuance; but ſo ſoon as the cauſe is removed, the court ſhall proceed to buſineſs until the end of the term, if the buſineſs depending before them be not ſooner diſpatched. *(d)*

VI. The juriſdiction of the ſaid courts reſpectively, ſhall be over all perſons, and in all cauſes, matters or things at common law, which were cognizable in the general court on the twenty-ſecond day of December, one thouſand ſeven hundred and eighty-eight, and which ſhall amount to one hundred dollars, or three thouſand pounds of tobacco, whether brought before them by original proceſs, by habeas corpus, appeal, writ of error, ſuperſe-

(a) Oct. 1788. c. 67. § 3. *(b)* 1788. c. 67. § 4. *(c)* 1788. c. 67. § 6, 7, & 11.—& 1789. c. 33. § 12. *(d)* 1788. c. 67. § 9. & 13.

deas, mandamus, certiorari to remove proceeding on a forcible entry or detainer, or for any other purpoſe, or by any legal ways or means whatſoever, except in the caſes herein after mentioned, and ſuch caſes as by the conſtitution of this commonwealth, or ſome particular ſtatute heretofore made, or hereafter to be made, are or ſhall be excluſively veſted in, or reſerved to the general court. They ſhall alſo have the ſame juriſdiction concerning mills, wills, roads, and letters of adminiſtration, public debtors, whether ſheriffs or others, and the recording of deeds for lands and other property within the diſtrict, and caveats, as the general court heretofore had by law, allowing the perſon entering any caveat to return a certified copy thereof, from the regiſter to the diſtrict court office, within thirty days from the time of entering the ſaid caveat. And the ſaid courts ſhall hear and determine all controverſies touching the ſame. *Provided alſo*, That writs of habeas corpus, appeal, error, ſuperſedeas, mandamus and certiorari, and controverſies concerning mills, wills, roads, caveats and letters of adminiſtration, ſhall not be heard or determined by any diſtrict court, unleſs ſuch writ of error, ſuperſedeas, mandamus, and certiorari, relate to ſome record or proceeding within the ſaid diſtrict, or the perſon praying the habeas corpus, or the mills, or roads, or lands for which the caveats have been inſtituted be within the ſame, or the wills or letters of adminiſtration be cognizable by the court of ſome county within the ſaid diſtrict. Thoſe caſes in which the court of admiralty heretofore had juriſdiction by law, and which are not taken away by the conſtitution of the United States, are hereby transferred to the diſtrict courts to be proceeded on as the law requires in the ſaid court of admiralty. *(a)*

VII. The court ſhall have power to try all iſſues and enquire of damages by a jury in all cauſes before them, and to determine all queſtions concerning the legality of evidence and other matters of law which may ariſe; for which trial the court ſhall cauſe the ſheriff attending them, to ſummon, impannel, and return jurors. *(b)*

VIII. The court ſhall hear and determine motions againſt ſheriffs or other officers, and attornies at law for refuſing to pay money due to clients, for the directors of the James river and Patowmac companies, and for ſecurities againſt their principals, or againſt each other for contribution, in all caſes and according to the rules preſcribed by law. *(c)*

IX. The court, when a queſtion new or difficult ariſes, may adjourn any matter of law to the general court, or any party thinking himſelf aggrieved by the judgment of the diſtrict court, may appeal thereupon as of right, or obtain a writ of error thereto from the court of appeals, not of right but at the diſcretion of the court. *(d)*

X. On an adjournment of a queſtion to the general court, or an appeal or writ of error to the court of appeals, the ſame proceedings ſhall be had as in caſes heretofore going from the general court to the court of appeals, but no coſts ſhall be incurred on any adjourned queſtion. *(e)*

XI. Each of the ſaid diſtrict courts in term time, or any judge thereof in vacation, ſhall, and may have and exerciſe the ſame power of granting injunctions to ſtay proceedings on any judgment obtained in any of the ſaid diſtrict courts, as is now had and exerciſed by the judge of the high court of chancery in ſimilar caſes, and the ſaid diſtrict courts may proceed to the diſſolution or final hearing of all ſuits commencing by injunction, under the ſame rules and regulations as are now preſcribed by law for conducting ſimilar ſuits in the high court of chancery.

XII. Whenſoever there ſhall be a vacancy in the office of clerk of any diſtrict court, it ſhall be lawful for a majority of the judges of the general court to appoint, by commiſſion under their hands and ſeals. *Provided*, That when ſuch vacancy ſhall happen during the ſeſſion of a diſtrict court, or the judges of the general court ſhall neglect to ſupply any vacancy until the enſuing ſeſſion of the diſtrict court, in which the vacancy ſhall be, it ſhall be lawful for the judges attending ſuch diſtrict court to appoint a clerk by commiſſion, under their hands and ſeals, which ſhall be as valid and effectual as if granted by a majority of the

(a) 1788 c. 67. § 11 & 12. *(b)* 1788. c. 67. § 13. *(c)* 1788. c. 67. § 14. *(d)* 1788. c. 67. § 16. *(e)* 1788. c. 67. § 17.

judges of the general court, And where the clerk of any diſtrict court cannot attend, it may be lawful for the judge or judges of ſuch court, to appoint a clerk pro tempore. *(a)*

XIII. Every perſon appointed clerk of any diſtrict court, having taken the oath for giving aſſurance of fidelity to the commonwealth, and the oath required to be taken by clerks of courts, adapting the ſame to the diſtrict court, ſhall thence forth be enabled to execute the duties of his office; which oaths may be taken by the clerks reſpectively, before any court of record in the commonwealth, and a certificate thereof ſhall be entered of record in his diſtrict, wherein at the firſt ſeſſion after his appointment, he ſhall moreover enter into bond, with ſufficient ſecurity, in the penalty of ten thouſand dollars, payable to the governor or chief magiſtrate, and his ſucceſſors, with condition for the faithful performance of his duty; which bond may be put in ſuit for the benefit, and at the coſts of any perſon or perſons aggrieved by the non-feiſance or miſ-feiſance of the clerk, as often as there ſhall be occaſion, until the whole penalty ſhall be recovered or levied. *(b)*

XIV. Each clerk ſhall hold his office during good behaviour, ſhall be removable on conviction upon an indictment or information, or miſ-uſer or non-uſer in office, and ſhall reſide and keep his office at the diſtrict courthouſe of which he is clerk; but when it is held alternately at different courthouſes, then he ſhall keep his office at either the one or the other courthouſe, as he may think beſt. The clerks fees ſhall be the ſame with thoſe of the county courts for ſimilar ſervices, and for all other ſervices the ſame as thoſe of the clerk of the general court, and ſhall be collected and accounted for in the ſame manner, and under the ſame penalties, as thoſe of the clerks of the county courts now are. *(c)*

XV. A tax of one dollar ſhall be, and is hereby impoſed on all final judgments in the diſtrict courts, which ſhall be paid by the party obtaining the ſame, to the clerk of the court, before ſuch judgment ſhall be entered, and taxed in the bill of coſts, and in all other reſpects the tax on proceſs in the diſtrict courts ſhall be the ſame, and be taxed in the bill of coſts in like manner as is by law directed, and the taxes on appeals from the diſtrict courts, and alſo on attorneies practiſing therein, ſhall be the ſame; to be collected, accounted for, and paid by the clerks reſpectively, in the like manner, and ſubject to the ſame mode of proceeding againſt them for default, as is directed for the like taxes in the county courts. But no tax ſhall be demanded on the judgments rendered on any appeal, writ of error, ſuperſedeas, ſpecial verdict, or caſe agreed, transferred from the general court to the diſtrict courts. *(d)*

XVI. The diſtrict courts to be held as aforeſaid, ſhall have full power to hear and determine all treaſons, murders, felonies, and other crimes and miſdemeanors, committed within their diſtrict, and which ſhall be brought before them, under the regulations hereinafter preſcribed; that is to ſay: In all criminal caſes where the charge ſhall be of ſuch a nature as in caſe of conviction, to ſubject the party to capital puniſhment, or burning in the hand, two judges ſhall be neceſſary to proceed upon the trial of the iſſue, whether in law or fact. *Provided always*, That if only one judge ſhall attend the ſaid court, and any priſoner ſhall notwithſtanding petition to be brought to trial, in ſuch caſe, one judge ſhall conſtitute a court for ſuch purpoſe. When two judges ſhall attend, all queſtions ariſing in criminal caſes, and ſubmitted to the court, in caſe the court ſhall be divided, ſhall be conſidered as adjudged in favor of the criminal; and if the court ſhall be divided upon the final judgment or ſentence, judgment ſhall be entered up in favor of the priſoner, and he forthwith diſcharged. When two judges do not attend, all criminal caſes depending in ſuch court, and not tried upon the conſent and petition of the priſoner, where the puniſhment ſhall be death or burning in the hand, ſhall ſtand continued over to the next court to be holden for that diſtrict; and if two judges do not attend at ſuch next court, every priſoner whoſe cauſe has been ſo contined over, ſhall be bailed as of right, which bail ſhall be according to the degree of the offence, and the ability of the priſoner. And if ſuch priſoner ſhall appear on the firſt day of the next term, and render himſelf purſuant to his recognizance, and there ſhall not be a ſufficient court to try ſuch priſoner, on or before the third

(a) 1788. c. 67 § 20. *(b)* 1788. c. 67. § 19. *(c)* 1788. c. 67. § 20 & 21. *(d)* 1789. c. 13 § 2.

day of that court, ſuch priſoner ſhall be forthwith diſcharged. *Provided always*, That any one judge may hear and determine a motion in behalf of the commonwealth, for giving judgment and awarding execution againſt any perſon convicted of a capital offence, where ſuch criminal ſhall eſcape between the conviction and the ſentence; or againſt any perſon attainted of a capital offence, where the day of execution ſhall have paſſed, and no pardon or reprieve ſhall have been granted. A diſtrict court may adjourn a queſtion of law in any criminal caſe, to the general court, with the conſent of the criminal, which may be there argued and decided, although ſuch criminal be not preſent. *(a)*

XVII. A public jailor ſhall be from time to time appointed to each diſtrict by the governor and council, who ſhall give bond and ſecurity to the governor and his ſucceſſors, in the penalty of fifteen hundred dollars, with condition for the faithful performance of the duties of his office, and ſhall be amenable to the judges of the diſtrict court; and the ſaid judges ſhall have the direction of the diſtrict jail, and they are hereby authoriſed and required, from time to time, to order and direct ſuch allowance to be made for the priſoners confined therein, and to fix what ſhall be paid to the keeper thereof for his trouble, as the ſaid judges ſhall think reaſonaele, and moreover to certify ſuch allowance, from time to time, to the auditor, who is hereby directed to debit the ſame, and give a warrant upon the treaſurer for the payment thereof. *Provided nevertheleſs*, That whenever the jail of a county is uſed as a diſtrict jail, the keeper of the county jail, and no other, ſhall act as a keeper of the jail of the ſaid diſtrict. The jailor during his continuance in office, ſhall be exempted from ſerving in the militia, and on juries. The keeper of the diſtrict jail ſhall conſtantly attend the ſaid court, and execute the commands of the ſaid court from time to time, and take or receive into his cuſtody, all perſons by the court to him committed on original or meſne proceſs, or in execution in any civil ſuit, or for any contempt to the court, and him or them ſafely keep until thence diſcharged by due courſe of law, and may demand of every ſuch priſoner the legal fees for diet and care; but where ſuch priſoner is ſo poor as not to be able to ſupport him or herſelf in priſon, the jailor ſhall be allowed by the public, ſeventeen cents per day, for the maintenance of every ſuch poor priſoner, and no ſecurity ſhall be demanded of him or her, nor ſhall he or ſhe be detained for ſuch priſon fees. The keeper of the diſtrict jail, by order of any two juſtices of his county, may impreſs guards for the ſafe keeping of all priſoners in his cuſtody, to be paid by the public, a like ſum and in like manner, as is by law allowed for guards impreſſed by ſheriffs for ſecuring priſoners. The fee to the ſheriff of the county, and to the diſtrict jailor for keeping and dieting any ſuch priſoner, ſhall be ſeventeen cents per day. *(b)*

XVIII. Priſon rules and bounds ſhall be aſſigned by the diſtrict courts.

XIX. To prevent miſconſtruction, it is hereby declared, that the ſheriff of the county in which any diſtrict court ſhall ſit, ſhall execute all judgments rendered by ſuch court in any criminal caſe, provided ſuch judgments are by law to be executed in the ſaid county. Every diſtrict court may make a reaſonable allowance to the ſheriff attending the ſame for his trouble, as well for his ſervices heretofore rendered, as thoſe in future to be by him performed, to be paid as the cryer of the general court; and the auditor of public accounts is hereby required to iſſue warrants in favor of ſuch perſons as have heretofore acted as cryer in the ſeveral diſtrict courts, agreeable to the certificates of the clerks of the ſaid courts, to be paid in the ſame manner as the cryer of the general court. *(c)*

XX. The judges of the court of appeals ſhall direct the forms of writs, from time to time, in ſuch manner as ſhall ſeem adviſable, and until an alteration be made therein the forms ſhall be as nearly as may be, aſſimilated to thoſe now uſed in the general court. *(d)*

XXI. All writs, ſummonſes, and other legal proceſs, ſhall be iſſued by the clerk, bear teſte in his name, and be returnable to the next court to be holden for the diſtrict, except in the caſe of ſubpœnas for witneſſes, which may be returnable immediately, if iſſued in term time, or on any day of the term. *(e)*

(a) 1788. c. 67. § 5, 14, 15.—1789. c. 13. § 16 & § 27. *(b)* 1788. c. 67. § 96, 97, 98, & 99—& 1791. c. 25. *(c)* 1789. c. 13. § 32. *(d)* 1788. c. 67. § 22. *(e)* 1788. c. 67. § 23.

XXII. Writs of habeas corpus may be granted by the ſaid courts, purſuing in all reſpects the act, intituled, "An act directing the mode of ſuing out and proſecuting writs of habeas corpus." And where any perſon ſhall be committed in any civil action to the jail of any county or corporation, for any cauſe or matter cognizable in the diſtrict courts, it ſhall be lawful for the clerk of the court of the diſtrict wherein ſuch commitment ſhall be, and he is hereby required, upon the application of ſuch perſon, and a certificate of his or her being actually in jail, to iſſue a writ of habeas corpus cum cauſa, to remove the body of ſuch priſoner into the diſtrict jail, and the cauſe of his commitment into ſuch diſtrict court, returnable on the firſt day of the ſucceeding court, if iſſued in vacation, on the laſt of the term, if ſued out whilſt the court is ſitting. *(a)*

XXIII. In all actions or ſuits which may be commenced againſt the governor of this commonwealth, any member of the privy council, any of the judges of the ſuperior courts, or the ſheriff of any county, during his continuance in office, inſtead of the ordinary proceſs, a ſummons ſhall iſſue to the ſheriff or other proper officer, reciting the cauſe of action, and ſummoning ſuch defendant to appear, and anſwer the ſame on the proper return day in the next diſtrict court; and if ſuch defendant being ſummoned, or after a copy ſhall have been left at his houſe ten days before the return day, ſhall not appear to anſwer the ſame, the court ſhall proceed againſt ſuch defendant, in the ſame manner as if he had been taken upon a capias ad reſpondendum. *Provided always*, That after judgment and the return of a fieri facias by the ſheriff of that county in which the defendant in any ſuch caſe reſides, that no effects, or not ſufficient are to be found in his bailiwick, to ſatisfy the ſaid judgment, a capias ad ſatisfaciendum may be iſſued as in other caſes. *(b)*

XXIV. No writ of capias ad reſpondendum ſhall be iſſued againſt any perſon in any other diſtrict than that in which he reſides, until a non eſt inventus has been returned in his or her diſtrict, upon a capias iſſued againſt ſuch defendant in the ſame ſuit, and every writ iſſued contrary thereto, ſhall be void, and diſmiſſed on the firſt calling thereof: *Provided nevertheleſs*, That where two or more perſons are or ſhall be jointly, or jointly and ſeverally bound for the performance of any contract, or for the payment of money or tobacco, by bond, covenant or otherwiſe, it ſhall be lawful to proſecute ſuch perſons jointly, in whatever diſtrict either of them may reſide, and proceſs ſhall be iſſued and ſerved accordingly in any county or diſtrict wherein the non-reſident defendant or defendants may be found; and where the bond or other writing on which ſuch ſuits ſhall be founded, ſhall be filed in the general court, in a county or other inferior court, in the court of one diſtrict, and oyer thereof ſhall be demanded by the defendant or defendants to a ſuit in another diſtrict, it ſhall be ſufficient for the plaintiffs, in the laſt mentioned ſuit, to file a copy of the bond or writing, atteſted by the clerk of the court, wherein the ſame is filed, and the defendant or defendants ſhall be obliged to plead thereto in like manner, as if the original bond or writing was filed, and ſuch copy ſhall be admitted as evidence on the trial. If however the defendant or defendants ſhall in ſuch caſe plead that the original bond or writing is not his or their deed, the clerk of the court having ſuch original paper in his cuſtody, ſhall, on being ſummoned as a witneſs, attend with the ſame at the trial of the iſſue for the inſpection of the jury. *(c)*

XXV. In all actions to recover the penalty for breach of any penal law not particularly directing ſpecial bail to be given, in actions of ſlander, treſpaſs, aſſault and battery, actions on the caſe for trover or other wrongs, and all perſonal actions, except ſuch as ſhall be hereinafter particularly mentioned, the plaintiff or his attorney ſhall on pain of having his ſuit diſmiſſed with coſts, indorſe on the original writ of ſubſequent proceſs, the true ſpiecies of action, that the ſheriff, to whom the ſame is directed, may be thereby informed, whether bail is to be demanded on the execution thereof; and in the caſes before mentioned, the ſheriff may take the engagement of an attorney practiſing in the diſtrict court, indorſed on the writ, that he will appear for the defendant or defendants, and ſuch appearance ſhall be entered with the clerk in the office, on the firſt day after the end of the court to which ſuch

(*a*) 1788. c. 67. § 24. (*b*) 1788. c. 67. § 25. (*c*) 1788. c. 67. § 26.

proceſs is returnable, which is hereby declared to be the appearance day in all proceſs returnable to any day of the court next preceding. And although no ſuch engagement of an attorney ſhall be offered to the ſheriff, he ſhall nevertheleſs be reſtrained from committing the defendant to priſon, or detaining him in his cuſtody for want of appearance bail, but the ſheriff in ſuch caſe ſhall return the writ executed, and if the defendant ſhall fail to appear thereto, there ſhall be the like proceeding againſt him only, as is herein after directed againſt defendants and their appearance bail, where ſuch is taken. *Provided always*, That any judge of the general court in actions of treſpaſs, aſſault and battery, trover and converſion, and in actions on the caſe where, upon proper affidavit or affirmation it ſhall appear to him proper that the defendant of defendants ſhould give appearance bail, may, and he is hereby authoriſed to direct ſuch bail to be taken by indorſement on the original writ, or ſubſequent proceſs; and every ſheriff ſhall govern himſelf accordingly. *(a)*

XXVI. In all actions of debt, founded upon any writing obligatory, bill or note in writing for the payment of money or tobacco, all actions of covenant and detinue, in which caſes the true ſpecies of action ſhall be indorſed on the writ as before directed, and that appearance bail is to be required, the ſheriff ſhall return on the writ, the name of the bail by him taken, and a copy of the bail bond to the clerk's office, before the day of appearance; and if the defendant ſhall fail to appear accordingly, or ſhall not give ſpecial bail, being ruled thereto by the court, the bail for appearance may defend the ſuit, and ſhall be ſubject to the ſame judgment and recovery as the defendant might or would be ſubject to, if he had appeared and given ſpecial bail; and in actions of detinue, the bail piece ſhall be ſo changed, as to ſubject the bail to the reſtitution of the thing, whether animate or inanimate, ſued for, or the alternative value, as the court may adjudge. *(b)*

XXVII. And if the ſheriff ſhall not return bail, and the copy of the bail bond, or the bail returned ſhall be adjudged inſufficient by the court, and the defendant ſhall fail to appear and give ſpecial bail, if ruled thereto, in ſuch caſe the ſheriff may have like liberty of defence, and ſhall be ſubject to the ſame recovery as is provided in the caſe of appearance bail. And if the ſheriff depart this life, before judgment be confirmed againſt him, in ſuch caſe the judgment ſhall be confirmed againſt his executors or adminiſtrators, or if there ſhall not be a certificate of probat or adminiſtration granted, then it may be confirmed againſt his eſtate, and a writ of fieri facias may in either caſe be iſſued. But the plaintiff ſhall object to the ſufficiency of the bail during the ſitting of the court next ſucceeding that to which the writ is returnable, or in the office, on the firſt or ſecond rule day, and at no time thereafter. And all queſtions concerning the ſufficiency of bail ſo objected to in the office, ſhall be determined by the court at their next ſucceeding term; and in all caſes where the bail ſhall be adjudged inſufficient, and judgment entered againſt the ſheriff, he ſhall have the ſame remedy againſt the eſtate of the bail as againſt the eſtate of the defendant. *(c)*

XXVIII. And every judgment entered in the office againſt a defendant and bail, or againſt a defendant and ſheriff, ſhall be ſet aſide, if the defendant at the ſucceeding court, ſhall be allowed to appear without bail, put in good bail, being ruled ſo to do, or ſurrender himſelf in cuſtody, and ſhall plead to iſſue immedately. The court ſhall regulate all other proceedings in the office during the preceding vacation, and rectify any miſtakes or errors which may have happened therein. *(c)*

XXIX. In every caſe where judgment ſhall be confirmed againſt any defendant or defendants and bail, or the ſheriff, his executors, adminiſtrators, or eſtate, as aforeſaid, the court upon motion of ſuch bail, or of ſuch ſheriff, his executors or adminiſtrators, or any other perſon on behalf of his eſtate, may order an atthachment againſt the eſtate of ſuch defendant or defendants, returnable to the next ſucceeding court, and upon the execution and return of ſuch attachment, the court ſhall order the eſtate ſeized, or ſo much thereof as will be ſufficient to ſatisfy the judgment and coſts, and all coſts accruing under the attachment,

(a) 1788. c. 67. § 27. *(b)* 1788. c. 67. § 28. *(c)* 1788. c. 67. § 29.

to be ſold as goods taken in execution upon a fieri facias, and out of the money ſuch judgment and coſts ſhall be ſatisfied, and the ſurplus, if any, reſtored to the defendant or defendants when required. *(a)*

XXX. Any judge of the general court, when the diſtrict court is not ſitting, or any juſtice of the peace, may take recognizance of ſpecial bail in any action therein depending, which ſhall be tranſmitted by the perſon taking the ſame, before the next ſucceeding court, to the clerk of the ſaid court, to be filed with the papers in ſuch action, and if the plaintiff or his attorney ſhall except to the ſufficiency of the bail ſo taken, notice of ſuch exception ſhall be given to the defendant or his attorney, at leaſt ten days previous to the day on which ſuch exception ſhall be taken, and if ſuch bail ſhall be adjudged inſufficient by the court, the recognizance thereof ſhall be diſcharged, and ſuch proceedings ſhall be had, as if no ſuch bail had been taken. *(b)*

XXXI. Every ſpecial bail may ſurrender the principal before the court where the ſuit hath been or ſhall be depending, at any time either before or after judgment ſhall be given; provided ſuch ſurrender be made before the appearance day of the firſt ſcire facias againſt the bail returned executed, or of the ſecond returned nihil, but in either caſe the ſpecial bail ſhall pay the coſts of the ſaid ſcire facias, and judgment for the ſame ſhall be entered againſt him accordingly. Upon ſuch ſurrender, the bail ſhall be diſcharged, and the defendant or defendants ſhall be committed to the cuſtody of the ſheriff or jailor attending ſuch court, if the plaintiff or his attorney ſhall deſire the ſame, or ſuch ſpecial bail may diſcharge himſelf or herſelf by ſurrendering the principal or principals to the ſheriff of the county where the original writ was ſerved, and ſuch ſheriff ſhall receive ſuch defendant or defendants, and commit him, her, or them, to the jail of his county, and ſhall give a receipt for the body or bodies of ſuch defendant or defendants, which ſhall be by the bail tranſmitted to the clerk of the court where the ſuit is or was depending. When ſuch ſurrender after judgment ſhall be to the ſheriff, he ſhall keep ſuch defendant or defendants in his cuſtody, in the ſame manner, and ſubject to the like rules, as are provided for debtors committed in execution, for the ſpace of twenty days, unleſs the creditor, his attorney, or agent, ſhall ſooner conſent to his, her, or their diſcharge. The bail ſhall give immediate notice of ſuch render to the creditor, his attorney or agent, and if within the ſaid twenty days, ſuch creditor, his attorney or agent, ſhall not in writing charge the debtor or debtors in execution, he, ſhe, or they ſhall be forthwith diſcharged out of cuſtody, but the plaintiff or plaintiffs may nevertheleſs afterwards ſue out any legal execution againſt ſuch debtor or debtors, without ſuing out a ſcire facias. *(c)*

XXXII. When the ſheriff or other proper officer, ſhall return on any original or meſne proceſs, that he hath taken the body of any defendant and committed him to priſon for want of appearance bail, the plaintiff may proceed, and the defendant make his defence, in like manner as if his appearance bail had been entered and accepted, but the defendant ſhall not be diſcharged out of cuſtody until he ſhall put in good bail, or the plaintiff ſhall be ruled by the court to accept an appearance without bail, and where any defendant after appearance entered, ſhall be confined to priſon, the plaintiff may file his declaration, give a rule to plead, and deliver copies of ſuch declaration and rule to the defendant or his attorney, and if the defendant ſhall fail to enter his plea, within two months after receiving ſuch declaration and notice, the plaintiff may have his judgmdnt by default, as in other caſes. *(d)*

XXXIII. Where the ſheriff or other proper officer, ſhall return on any writ of capias to anſwer in any civil action, that the defendant is not found within his bailiwick, the plaintiff may either ſue out an alias or a pluries capias, until the defendant ſhall be arreſted, or a teſtatum capias, where he ſhall be removed into another county, or may, at his election, ſue out an attachment againſt the eſtate of the defendant to force an appearance; and if the ſheriff or other officer ſhall return that he hath attached any goods, and the defendant ſhall not appear and replevy the ſame, by entering his appearance and giving ſpecial bail, in caſe he ſhall be ruled ſo to do, the plaintiff ſhall file his declaration, and be entitled to a judgment

(a) 1788. c. 67. § 29. *(b)* 1788. c. 67. § 30. *(c)* 1788. c. 67. § 31. *(d)* 1788. c. 67. § 32.

for his debt or damages and coſts, which judgment ſhall be final in all actions of debt founded on any ſpecialty, bill or note in writing, aſcertaining the demand, unleſs the plaintiff ſhall chooſe in any ſuch caſe to have a writ of enquiry of damages, and in other caſes the damages ſhall be ſettled by a jury ſworn to enquire thereof. The goods attached ſhall remain in the hands of the officer until ſuch final judgment be entered, and then be ſold in the ſame manner as goods taken upon a fieri facias, and if the judgment ſhall not be thereby ſatisfied, the plaintiff may ſue out execution for the reſidue; and in caſe more goods be attached than will ſatisfy the judgment, the ſurplus ſhall be returned to the defendant *(a)*

XXXIV. If any writ or proceſs ſhall be executed, and for want of a return thereof to the office from which it iſſued, an alias pluries, attachment, or other proceſs be awarded, the ſheriff ſhall not execute ſuch ſubſequent proceſs, but ſhall return the firſt proceſs by him executed, if it be in his poſſeſſion, but if it be not in his poſſeſſion, then he ſhall return the ſubſequent proceſs, with an indorſement of the execution of ſuch firſt proceſs, and the name of the appearance bail, if any was taken, and ſhall alſo return a copy of the bail bond, on which there ſhall be the ſame proceedings, as if the ſaid firſt proceſs had been duly returned. *(b)*

XXXV. Rules ſhall be monthly held in the clerk's office of each diſtrict court, beginning the day after the riſing of ſuch court. The plaintiff ſhall file his declaration in the clerk's office at the next ſucceeding rule day, after the defendant ſhall have entered his appearance, or the defendant may then enter a rule for the plaintiff to declare, which if he fails or neglects to do, at the ſucceeding rule day, or ſhall at any time fail to proſecute his ſuit, he ſhall be non-ſuited, and pay to the defendant or tenant beſides his coſts, three dollars, where his place of abode is at the diſtance of twenty-five miles or under, from the place of holding the ſaid diſtrict court, and where it is more, ten cents for every mile above twenty. *(c)*

XXXVI. One month after the plaintiff hath filed his declaration, he may give a rule to plead with the clerk, and if the defendant ſhall not plead accordingly at the expiration of ſuch rule, the plaintiff may enter judgment for his debt, or damages and coſts. *(d)*

XXXVII. All rules to declare, plead, reply, rejoin, or for other proceedings, ſhall be given regularly from month to month, ſhall be entered in a book to be kept for that purpoſe, and ſhall expire on the ſucceeding rule day. *(e)*

XXXVIII. No plea in abatement ſhall be admitted or received, unleſs the party offering the ſame, ſhall prove the truth thereof, by oath or affirmation, as the caſe may require. And no plea of non eſt factum offered by the perſon charged as the obligor or grantor of a deed, ſhall be admitted or received, unleſs the truth thereof ſhall in like manner be proved by oath or affirmation. *(f)*

XXXIX. And where any perſon other than the obligor ſhall be defendant, ſuch defendant ſhall prove by oath or affirmation, that he or ſhe verily believes, that the deed on which the action is founded, is not the deed of the perſon charged as the obligor or grantor thereof; in which laſt mentioned caſe, the plea of non eſt factum ſhall not be admitted or received without ſuch oath or affirmation. And where a plea in abatement ſhall upon argument be adjudged inſufficient, the plaintiff ſhall recover full coſts, to the time of over ruling ſuch plea, a lawyer's fee only excepted. *(f)*

XL. The plaintiff in replevin, and the defendant in all other actions, may plead as many ſeveral matters, whether of law or fact, as he ſhall think neceſſary for his defence. *(g)*

XLI. On the return of the pluries, that the defendant is not to be found, the court inſtead of the proceſs to outlawry formerly uſed, may order a proclamation to iſſue, warning the defendant to appear at a certain day therein named, or that judgment will be rendered againſt him, which proclamation ſhall be publiſhed at three ſucceſſive court days, at the door of the courthouſe of the county to which the laſt proceſs was directed, and alſo

(a) 1788. c. 67. § 33. *(b)* 1788. c. 67. § 34. *(c)* 1788. c. 67. § 35 & 36. *(d)* 1788. c. 67. § 37. *(e)* 1788. c. 67. § 38. *(f)* 1788. c. 67. § 39. *(g)* 1788. c. 67. § 40.

three times in the Virginia Gazette; and if the defendant fails to appear purſuant to ſuch proclamation, the ſame proceedings ſhall be had, and the ſame judgment given, as in other caſes of default. *(a)*

XLII. All judgments by default for want of an appearance or ſpecial bail, or pleas as aforeſaid, and non-ſuits or diſmiſſions obtained in the office, and not ſet aſide on ſome day of the next ſucceeding diſtrict court, ſhall be entered by the clerk as of the laſt day of the term, which judgment ſhall be final in actions of debt, founded on any ſpecialty, bill or note in writing, aſcertaining the demand, unleſs the plaintiff ſhall chooſe in any ſuch caſe to have a writ of enquiry of damages, and in all other caſes the damages ſhall be aſcertained by a jury, to be impannelled and ſworn to enquire thereof, as is herein after directed. *(b)*

XLIII. Before every diſtrict court, the clerk ſhall enter in a particular docket, all ſuch cauſes, (and thoſe only) in which an iſſue is to be tried, or enquiry of damages to be made, or a ſpecial verdict, caſe agreed, demurrer, or other matter of law is to be argued, in the ſame order, as they ſtand in the courſe of proceeding, ſetting as near as may be, an equal number of cauſes to each day. *(c)*

XLIV. It ſhall be lawful for the diſtrict courts, on giving judgment in any caſe removed by appeal, writ of error, ſuperſedeas, or certiorari, from the inferior courts, either for the appellant, appellee, plaintiff, or defendant, and in any cauſe originating in the diſtrict courts, where the verdict or judgment ſhall be given for the defendant, to award coſts to the party or parties, in whoſe favor ſuch judgment ſhall be given; and on all motions it ſhall be lawful for the ſaid courts to give or refuſe coſts at their diſcretion; and in all other cauſes where the plaintiff ſhall recover debt or damages, the coſts ſhall be governed by law. *(d)*

XLV. A certiorari to remove proceedings on a forcible entry or detainer, or for any other purpoſe, except the removal of a ſuit from an inferior court, may be granted without notice. *(e)*

XLVI. For preventing errors in entering up the judgments of the ſaid courts, the proceedings of every day ſhall be drawn up at large, by the clerk againſt the next ſitting of the court, when the ſame ſhall be read in open court, and ſuch corrections as are neceſſary, being made therein, they ſhall be ſigned by the preſiding judge, and carefully preſerved among the records. On the laſt day of each court, the proceedings therein ſhall be drawn up, read, corrected, ſigned and preſerved as aforeſaid. *(f)*

XLVII. When any cauſe ſhall be finally determined, the clerk of the diſtrict court, ſhall enter all the pleadings, and papers filed as evidence therein, and the judgment thereupon, ſo as to make a complete record thereof, and thoſe wherein the title of lands is determined, ſhall be entered in a ſeparate book to be kept for that purpoſe. *(g)*

XLVIII. On writs of ſcire facias for renewal of judgments, no judgment ſhall be rendered on the return of two nihils, unleſs the defendant reſides in the diſtrict, or unleſs he be abſent from the commonwealth, and have no known attorney within the ſame. But ſuch ſcire facias may be directed to the ſheriff of any county in this commonwealth, wherein the defendant or his attorney ſhall reſide or be found, which being returned ſerved, the court may proceed to judgment thereon, as if the defendant had reſided in the diſtrict. *(h)*

XLIX. If any perſon or perſons ſhall deſire to remove any ſuit depending in any inferior court, into the diſtrict court, provided the ſame be originally cognizable therein, a certiorari, for ſuch removal, may be granted by the diſtrict court, for good cauſe ſhewn upon motion, and ten days previous notice thereof, given in writing to the adverſe party, or in vacation, the party deſiring ſuch writ, ſhall by petition to the judges of the general court, ſet forth his or her reaſons, and make oath before a magiſtrate of the truth of the allegations of ſuch petition, whereupon any judge of the ſaid court, may, under his hand,

(a) 1788. c. 67. § 41. *(b)* 1788. c. 67. § 42. *(c)* 1788. c. 67. § 43. *(d)* May 1783. c 40. *(e)* 1789. c. 13. § 17. *(f)* 1788. c. 67. § 80. *(g)* 1788. c. 67. § 82. *(h)* 1788. c 67. § 83.

order the certiorari to iſſue, and direct the penalty of the bond, to be taken previous thereto, or may reject ſuch petition, as to him ſhall ſeem juſt; provided that ten days previous notice of the time and place of applying for ſuch writ, be given in writing to the adverſe party, upon which order of the judges, the clerk ſhall iſſue the certiorari. *Provided*, That the party ſhall enter into bond with ſufficient ſecurity, in the penalty ſo directed, with condition for ſatisfying all money or tobacco and coſts, which ſhall be recovered againſt the party in ſuch ſuit; but if any ſuit ſo removed by certiorari, ſhall be remanded to the inferior court, by procedendo or otherwiſe, ſuch cauſe ſhall not afterwards be removed to the diſtrict court, before judgment ſhall be given therein in the inferior court. *(a)*

L. The clerks of the diſtrict courts, ſhall carefully preſerve all ſuch petitions for writs of certiorari, with the affidavits thereto, in the office; and if any perſon in ſuch affidavit, ſhall wilfully make a falſe oath, and be thereof convicted, upon a proſecution commenced within twelve months after the offence committed, ſuch offender ſhall ſuffer the pains and penalties directed for wilful and corrupt perjury. *(b)*

LI. No writ of error or ſuperſedeas ſhall be granted in any caſe, until a final judgment in the county or other inferior court. *(c)*

LII. No ſuperſedeas or writ of error, ſhall be granted to any judgment in the diſtrict or county, or other inferior court, after the expiration of five years, from and after the date thereof; ſaving the rights of infants, femes covert, perſons non compos, in priſon, or beyond ſeas, until the expiration of two years after the diſability ceaſes. *(c)*

LIII. Where any perſon or perſons, body politic or corporate, ſhall think themſelves aggrieved by the judgment, or ſentence of any county court, or court of huſtings, in any action, ſuit or conteſt whatſoever, where the debt or damages, or other thing recovered or claimed in ſuch ſuit, excluſive of the coſts, ſhall be of the value of one hundred dollars, or three thouſand pounds of tobacco or upwards, or where the title or bounds of land ſhall be drawn in queſtion, or the conteſt ſhall be concerning mills, roads, the probat of wills, or certificates for obtaining adminiſtration, ſuch perſon or perſons, body politic or corporate, may enter an appeal from ſuch judgment or ſentence, to the firſt day of the next court of the diſtrict, in which ſuch county is. *(d)*

LIV. The party praying a writ of ſuperſedeas, ſhall petition the diſtrict court for the ſame, pointing out the errors he means to aſſign in the proceedings, and procure ſome attorney practiſing in ſuch court reſpectively, to certify, that in his opinion there is ſufficient matter of error for reverſing the judgment, whereupon ſuch courts in their ſeſſion, or any judge of ſuch court reſpectively in vacation, may order ſuch writ to be iſſued, or reject the petition, as to them ſhall ſeem juſt. *(e)*

LV. Writs of error or ſuperſedeas, may be granted by a diſtrict court, or any judge of the general court, to a judgment of a county court, where ſuch judgment ſhall be of the value of thirty-three dollars and thirty-three cents, or one thouſand pounds of tobacco, or upwards. *(f)*

LVI. Before granting any appeal, or the iſſuing of any writ of error or ſuperſedeas, the party praying the ſame, ſhall enter into bond with ſufficient ſecurity, in a penalty to be fixed by the court or judge granting the ſame, with condition to pay the amount of the recovery, and all coſts and damages awarded, in caſe the judgment or ſentence be affirmed. Where ſeveral appeal, or obtain a writ of error or ſuperſedeas, bond and ſecurity given by any party, ſhall be ſufficient. *(g)*

LVII. If upon hearing any writ of error or ſuperſedeas, the judgment of the inferior court be reverſed in whole or in part, the diſtrict court ſhall enter ſuch judgment thereupon, as ought to have been entered in the inferior court. *(h)*

LVIII. Bonds to be given in court for obtaining writs of error, ſuperſedeas, certiorari,

(a) 1788. c. 67. § 84. *(b)* 1788. c. 67. § 85. *(c)* 1788. c. 67. § 86. *(d)* 1788. c. 67. § 87. *(e)* 1788. c. 67. § 88. *(f)* 1789. c 13. § 22. *(g)* 1788. c. 67. § 90. *(h)* 1788. c. 67. § 91.

appeals, or any other cauſe, ſhall be valid and and ſufficient if given by a reſponſible perſon and ſecurity, although the party intereſted in the event of the ſuit be not an obligor *(a)*

LIX. Where the defendant in any perſonal action appeals, or obtains ſuch writ of error or ſuperſedeas, if the judgment be affirmed, the damages beſides coſts ſhall be ten per centum per annum upon the principal ſum and coſts, recovered in the inferior court, in ſatisfaction of all damages or intereſt. *(b)*

LX. In real or mixed actions the damages ſhall be thirty-three dollars and thirty-cents, or two thouſand pounds of tobacco beſides coſts, and where the plaintiff appeals in any action, if the judgment be affirmed, and in all controverſies about mills, roads, probat of wills, or certificates for adminiſtration, if the ſentence of the inferior court be affirmed, the party appealing ſhall pay to the other all coſts. *(c)*

LXI. If a record on an appeal, writ of error, or ſuperſedeas, be not delivered to the clerk of the diſtrict court before or during the ſecond term of ſuch court after the ſame was granted, the ſame ſhall not be received at any time thereafter, unleſs good cauſe be ſhewn to the court to the contrary; and after ſuch diſmiſſion, no writ of error, or ſuperſedeas, ſhall be allowed. *(d)*

LXII. It ſhall be the duty of the attorney general to nominate and appoint proper perſons to proſecute for the commonwealth, in ſuch courts as he cannot attend himſelf. *(e)*

LXIII. The clerk of each diſtrict court ſhall annually before the laſt day of January, tranſmit to the ſheriff of each county within the diſtrict, a liſt of all fines impoſed by the diſtrict court in the year next preceding, to the uſe of the commonwealth, on perſons reſiding in ſuch county, and the ſheriffs ſhall reſpectively proceed to collect, levy, account for, and pay the ſame in like mannr, and ſubject to the ſame remedy and proceedings, againſt them for default, as is or ſhall be directed in caſe of public taxes, being allowed in their accounts for inſolvents, and five per centum commiſſions; and the ſaid clerks ſhall ſeverally tranſmit copies of ſuch liſts to the auditor, to enable him to call the ſheriffs to account. *(f)*

LXIV. The ſaid courts ſhall have juriſdiction reſpectively in all cauſes, matters and things in the diſtrict courts reſpectively depending at the commencement of this act, and no diſcontinuance ſhall take place in any cale whatſoever, civil or criminal, which ſhall be depending in any diſtrict court at the commencement of this act, by reaſon of the paſſing thereof, but the ſame ſhall be therein tried and determined as if this act had never been made.

The repealing clauſe is as in the appendix No. 12.

December the 25th, 1795.

§ I. WHEREAS in the conſtruction of the act, intituled, "An act reducing into one, the ſeveral acts, concerning the eſtabliſhment, juriſdiction, and powers of diſtrict courts," it hath been held that the judges of the general court cannot attend, or hold a diſtrict court, except in ſuch diſtricts only, as they may be reſpectively allotted to, which conſtruction hath been attended with ſome inconvenience:

II. *Be it therefore enacted*, That from and after the paſſing of this act, it ſhall be lawful for the judges of the general court, or either of them, notwithſtanding any allotment heretofore made, or hereafter to be made among them, to attend and hold a diſtrict court purſuant to the directions of the ſaid recited act, in any other diſtrict than thoſe to which they ſhall be reſpectively allotted: *Provided*, the judges allotted to ſuch diſtrict, ſhall fail to attend the ſame; any thing in the ſaid act to the contrary, or ſeeming to the contrary notwithſtanding: *And provided alſo*, That when ſuch allotments ſhall be made, no judge ſhall exchange the diſtrict to which he is allotted.

(a) 1788. c. 67. § 92. *(b)* 1788. c. 67. § 93. *(c)* 1788. c. 67. § 94. *(d)* 1789. c. 13. § 35. *(e)* 1788. c. 67. § 110. *(f)* 1788. c. 67. § 132.

December the 8th, 1795.

§ I. WHEREAS by the act of aſſembly, intituled, "An act reducing into one, the ſeveral acts concerning the eſtabliſhment, juriſdiction, and powers of diſtrict courts," paſſed the twelfth day of December, one thouſand ſeven hundred and ninety-two, it is among other things provided, "That the counties of Greenbrier, Botetourt, Montgomery, and Kanawha, ſhall compoſe a diſtrict, and a court ſhall be holden for the ſame at Lewiſburg in Greenbrier, and Botetourt courthouſe, alternately, until the proprietor of the Sweet Springs ſhall erect a ſufficient courthouſe and priſon for the purpoſes of the ſaid act, after which time, the Sweet Springs ſhall become the ſeat of the ſaid diſtrict court:" And whereas it hath been repreſented to this preſent general aſſembly, by the proprietor of the Sweet Springs, that he hath erected a ſufficient courthouſe and priſon:

II. *Be it therefore enacted*, That Thomas Edgar, William Hayns, Nicholas Carper, David Kean, and William Wilſon, gentlemen, ſhall be, and they, or any three of them, are hereby empowered and required, on or before the firſt day of May next, to view and examine the courthouſe and priſon built at the ſaid Sweet Springs, and report to the court to be next holden for the ſaid diſtrict, the form and ſtrength of the ſaid buildings; and if the judge or judges of the ſaid court ſhall be of opinion that the ſame are ſufficient for the purpoſes intended by the ſaid act, the ſame ſhall be entered of record, and thenceforth, the court for the ſaid diſtrict ſhall be conſtantly held at the ſaid place.

December the 17th, 1795.

INSTEAD of the firſt day of September, the diſtrict court directed by law to be holden in the town of Wincheſter, ſhall hereafter be held on the fifth day of October annually, unleſs the ſame ſhall happen to be on Sunday, in which caſe the ſaid court ſhall begin on the ſucceeding day.

COUNTY AND CORPORATION COURTS.

December the 3d, 1792—but commenced May 1, 1793.

§ I. IN every county, city, corporation and borough within this commonwealth, in which the power of holding courts hath been heretofore, or ſhall hereafter be veſted by law, a court, to be denominated the court of ſuch county, city, corporation, or borough, reſpectively, ſhall hereafter continue to be held by the juſtices of ſuch counties, and the magiſtrates of ſuch cities, corporations, and boroughs, reſpectively, at the times and places, and in the manner hereinafter directed; any four of which juſtices or magiſtrates ſhall conſtitute a court, except in ſuch caſes where a greater number may by any law be directed.

II. Every perſon appointed a juſtice of the peace for any county or corporation, before his entering upon and executing the ſaid office, ſhall publicly in the court houſe of his county or corporation, and on a court day, take the oath of fidelity to the commonwealth, as alſo the following oaths, to wit:

"You ſhall ſwear that as a juſtice of the peace, in the county (or corporation) of——, "in all articles in the commiſſion to you directed, you ſhall do equal right to the poor and "to the rich, to the beſt of your ability and judgment, and according to law; and you "ſhall not be of counſel of any quarrel hanging before you, and iſſues, fines and amerce- "ments that ſhall happen to be made, and all forfeitures which ſhall fall before you, you "ſhall cauſe to be entered without any concealment or embezzling; you ſhall not let, for "gift, or other cauſes, but well and truly you ſhall do you office of a juſtice of the peace, "as well within your county (or corporation) court, as without, and you ſhall not take "any fee, gift, or gratuity, for any thing to be done by virtue of your office; and you "ſhall not direct, or cauſe to be directed, any warrant by you to be made, to the parties;

" but you ſhall direct them to the ſheriff or other officer of the commonwealth, or other " indifferent perſon, to do execution thereof." So help you God.

The oath of a juſtice of the county or corporation courts in chancery:

" You ſhall ſwear that well and truly you will ſerve the commonwealte in the office of " a juſtice in the county (or corporation) court of , in chancery, and that " you will do equal right to all manner of people, great and ſmall, high and low, rich " and poor, according to equity and good conſcience, and the laws and uſages of the com- " monwealth of Virginia, without favor, affection, or partiality." So help you God.

And if any perſon whatſoever ſhall preſume to execute the office of a juſtice of the peace, or magiſtrate of a county or corporation court, without firſt qualifying himſelf in the manner by this act before required, he ſhall for every ſuch offence, forfeit and pay one thouſand dollars, one moiety to the uſe of the commonwealth, and the other moiety to the informer; to be recovered by action of debt, in any court of record in this commonwealth. *(a)*

III. If the buſineſs of any of the ſaid courts cannot be determined on the court day, the juſtices may adjourn from day to day not exceeding ſix days, until all cauſes and controverſies then depending before them, ſhall be heard and determined, or otherwiſe continued in the manner hereinafter directed. *(b)*

IV. If a ſufficient number of juſtices ſhould not attend to form a court on the firſt day of any court, or any ſubſequent day thereof, it ſhall and may be lawful for any one juſtice to adjourn the court from day to day, for the ſpace of three days; and if there ſhall not be a ſufficient number convened at four o'clock in the afternoon of the fourth day, all cauſes, matters and things therein depending, ſhall ſtand continued to the next ſucceeding court. If from any cauſe the court ſhall not ſit on any day in a term after it ſhall have been opened, there ſhall be no diſcontinuance, but ſo ſoon as the cauſe is removed, the court ſhall proceed to buſineſs until the end of the term, if the buſineſs depending before them be not ſooner diſpatched. No diſcontinuance ſhall take place in any caſe by reaſon of the juſtices failing to make a court, or to adjourn; but in ſuch caſes, all ſuits, proceſs, matters and things depending, ſhall ſtand continued, and all returns and appearances, ſhall be made to the next ſucceeding court in courſe, in the ſame manner as if ſuch ſucceeding court had been the ſame court to which ſuch proceſs ſtood continued, or ſuch returns or appearances ſhould have been made. And all recognizances, bonds and obligations, for appearance, and all returns, ſhall be of the ſame force and validity for the appearance of any perſon or perſons at ſuch ſucceeding court, as if the next ſucceeding court had been expreſsly mentioned therein. And all cauſes depending upon the docket, and undetermined at any adjournment to the court in courſe, ſhall ſtand continued in the ſame order to ſuch court, without any fee to the clerk for the continuance of ſuch as ſhall not then be called over. *(c)*

V. The juſtices of every ſuch court, or any four of them, as aforeſaid, ſhall and may take cognizance of, and are hereby declared to have power, authority and juriſdiction, to hear and determine all cauſes whatſoever now depending, or which ſhall hereafter be brought in any of the ſaid courts, at the common law, or in chancery, within their reſpective counties and corporations, and all ſuch other matters as by any particular ſtatute, is or ſhall be made cognizable therein, except ſuch criminal cauſes where the judgment upon conviction ſhall be for the loſs of life or member, and except the proſecution of cauſes to outlawry againſt any perſon or perſons, and except alſo all cauſes of leſs value than five dollars, or two hundred pounds of tobacco, other than proſecutions on any penal law of this commonwealth; and alſo ſuch caſes as are by law excluſively veſted in any other tribunal. *(d)*

VI. When the cauſe of action ſhall not exceed five dollars, or two hundred pounds of tobacco, the ſame is hereby declared to be cognizable, and finally determinable by any one

(a) 1748. c. 4. § 2. *(b)* 1787. c. 10. *(c)* 1787. c. 10. & 1748. c. 4. § 24. *(d)* 1748. c. 4. § 5.

juſtice of the peace, who may give judgment, and thereupon award execution againſt the goods and chattels of the debtor, or party againſt whom ſuch judgment ſhall be given, which ſhall be executed and returned, by the ſheriff or conſtable to whom directed, in the ſame manner as other writs of fieri facias, are to be executed and returned, but no execution ſhall be by him granted againſt the body of the defendant. (*a*)

VII. The ſaid courts ſhall be held at the ſeveral reſpective places, at preſent aſſigned by law for that purpoſe, or at ſuch place or places, as ſhall be hereafter lawfully appointed, on the ſeveral days for holding courts heretofore in ſuch counties or corporations reſpectively appointed by law, in the months of March, May, Auguſt, and November, in every year, except as herein after excepted, for the trial of all preſentments, criminal proſecutions, ſuits at common law and in chancery, where the ſum exceeds twenty dollars, or eight hundred pounds of tobacco, now depending, or which hereafter ſhall be brought in any of the ſaid courts, and ſhall continue for the ſpace of ſix days, unleſs the buſineſs be ſooner determined; which ſeſſions of the ſaid courts ſhall be denominated the quarterly ſeſſions of ſuch courts reſpectively. *Provided always*, That in the counties of Montgomery, Waſhington, Ruſſel, and Wythe, ſuch courts ſhall be held on the days now by law reſpectively appointed for holding courts in the months of April, June, September, and November; and in the counties of Henry and Cumberland, in the months of February, April, July, and October, and in the counties of Norfolk, Princeſs Anne, Northamton Nanſemond, Staffordſ, Spotſylvania, Fairfax, Loudoun, Prince William, Berkeley, and Ohio, and in the borough of Norfolk, in the months of March, June, Auguſt, and November; and in the county of Pendleton, in the months of April, June, September, and December; and in the county of Hampſhire, in the months of March, May, September, and November, in every year; and in the counties of King George and Frederick, in the month of June, annually, inſtead of the month of May.

VIII. A monthly ſeſſion of the ſaid courts ſhall be held in like manner, on the days heretofore by law appointed for holding courts in ſuch counties and corporations reſpectively, in every month in which there ſhall not be a quarterly ſeſſion for the trial of petitions for ſmall debts, or for trover and converſion, or detention of any thing not exceeding twenty dollars, or eight hundred pounds of tobacco, for proving and recording deeds and wills, and granting certificates of probat and adminiſtration, and for the tranſaction of all buſineſs, which by law is or ſhall be made cognizable in a county or corporation court, except ſuch as has been herein aſſigned to the court of quarter ſeſſions. *Provided nevertheleſs*, That injunctions in chancery may be granted or diſſolved, judgments on attachments againſt abſconding debtors, where the property attached ſhall not be replevied, entered up, and all matters touching the breach of the peace, and good behaviour, motions on replevy bonds, and againſt ſheriffs and other public officers and defaulters, may be heard and determined either at a monthly or quarterly court. (*b*)

IX. All original proceſs to bring any perſon or perſons to anſwer in any action or ſuit, indictment or information in the ſaid courts, and all ſubſequent proceſs thereon, all proceſs in chancery awarded by the ſaid court, and all other writs of what nature ſoever, ſhall be iſſued and bear teſte by the clerk of ſuch courts reſpectively, and made returnable to the firſt day of the next ſucceeding quarterly term; except ſubpœnas of injunction, attachments, petitions and ſubpœnas for witneſſes, which ſhall be returnable to the next ſucceeding court, be the ſame monthly or quarterly, as the caſe may require.

X. Special bail may be taken in court at the quarterly ſeſſions, or at the monthly courts. (*c*)

XI. The county and corporation courts, at their quarterly ſeſſions, ſhall have ſimilar juriſdiction with the high court of chancery, and ſhall proceed in the ſame manner againſt the eſtate and effects of perſons reſiding out of this ſtate, or abſconding to avoid being ſerved with the proceſs of the ſaid court; and may hear and determine all caveats againſt grants for lands lying within the juriſdiction of the ſaid courts reſpectively.

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(*a*) 1748. c. 4. § 5. (*b*) 1788. c. 10. (*c*) 1787. c. 10.

XII. All writs of execution upon judgments obtained in the quarterly or monthly courts, and all executions and other proceſs to enforce any decree in chancery, obtained in either of the ſaid courts, may be made returnable to the firſt day of a quarterly or monthly court, provided there be not leſs than fifteen, nor more than ninety days between the teſte and return of ſuch execution or proceſs. *(a)*

XIII. From time to time, forever hereafter, the court of every county and corporation within this commonwealth, ſhall cauſe to be erected and kept in repair, (or where the ſame ſhall be already built, ſhall maintain and keep in good repair) within each reſpective county and corporation, and at the charge of ſuch county or corporation, one good and convenient courthouſe of ſtone, brick, or timber, and one common jail and county priſon, well ſecured with iron bars, bolts, and locks, and alſo one pillory, whipping-poſt, and ſtocks; and where land ſhall not be already provided and appropriated for that purpoſe, ſuch court may purchaſe two acres, whereon to erect the ſaid public buildings, for the uſe of their county or corporation, and for no other uſe whatſoever. And to every courthouſe, already built and eſtabliſhed, two acres of the land, built upon and adjacent thereto, not having any houſe, orchard, or other immediate convenience thereon, ſhall be and remain appropriated to ſuch courthouſe, and the fee-ſimple thereof, is hereby declared to be in the court of the ſame county, and their ſucceſſors, to the uſe of ſuch county as aforeſaid; but where a courthouſe is already built in any city or town, the land now laid off for the ſame, and the other public buildings, ſhall be judged and held to be ſufficient. And if the juſtices of any county or corporation court, ſhall at any time hereafter fail to keep and maintain a good and ſufficient priſon, pillory, and ſtocks, every member of the court, ſo failing, ſhall forfeit and pay ten dollars, one moiety to the commonwealth, the other moiety to the informer; to be recovered with coſts, by action of debt or information, in any court of record of this commonwealth. And moreover, the court ſo failing, ſhall be liable to the action of the ſheriff, from time to time, for all damages recovered againſt him, upon any eſcape for want of a ſufficient priſon; and ſuch ſheriff or his executors, or adminiſtrators, ſhall and may ſue for the ſame by action of debt or information, brought in the general court againſt the juſtices ſo failing, or the ſurvivors of them, and upon recovery in ſuch ſuit, the judges of the ſaid court, are hereby empowered and required to proportion how much every particular juſtice of the court ſo failing, who ſhall be then living, and the executors or adminiſtrators of ſuch as ſhall be deceaſed, ſhall pay reſpectively, and to enter up judgment accordingly, whereupon one or more executions ſhall and may be iſſued. *(b)*

XIV. All perſons taken on civil or criminal proceſs in the county of James City, may be committed to the public jail in the city of Williamſburg, in like manner as if the ſame was within the limits of the ſaid county; and the city of Williamſburg ſhall have a right to uſe the public jail therein, as the jail of the ſaid city, and the diſtrict jailor therein ſhall act as keeper of the jail of the ſaid city.

XV. The juſtices of every county and corporation, ſhall be, and they are hereby empowered and required, to mark and lay out the bounds and rules of their reſpective county and corporation priſons, not exceeding ten acres of land, adjoining to ſuch priſon, which marks and bounds ſhall be recorded, and renewed from time to time, as occaſion ſhall require; and every priſoner not committed for treaſon or felony, giving good ſecurity to keep within the ſaid rules, ſhall have liberty to walk therein, out of the priſon for the preſervation of his or her health, and keeping continually within the ſaid bounds, ſhall be adjudged in law a true priſoner. *(c)*

XVI. And if the court of any county or corporation, ſhall at any time think fit, they are hereby authoriſed and empowered, at the charge of their county or corporation, to cauſe a ducking-ſtool to be built in ſuch convenient place as they ſhall direct. *(c)*

XVII. All proceſs iſſuing from ſuch courts to bring any perſon to anſwer in any ſuit in ſuch courts, ſhall be executed three days at leaſt before the day therein mentioned for

(a) 1787. c. 10. *(b)* 1748. c. 4. § 30. *(c)* 1748. c. 4. § 31.

the return thereof; and if any proceſs ſhall be delivered to the ſheriff or officer ſo late that he cannot execute the ſame three days before the return day, ſuch proceſs ſhall not be executed, but the officer ſhall return the truth of the caſe. And if any original proceſs be taken out within three days before the next court day, ſuch proceſs ſhall be returnable to the next court after the ſaid three days, and not otherwiſe; and all proceſs iſſued or returnable, in other manner than is herein before directed, ſhall be null and void. *Provided nevertheleſs*, That any juſtice or juſtices of peace, by his or their warrant, may cauſe any traitor, felon, pirate, rioter, breaker of the peace, or other criminal offender, to be apprehended and brought before the ſame, or ſome other juſtice or juſtices, or before the next court, although there be no not three days between the execution of ſuch warrant and the return thereof. *(a)*

XVIII. In all actions or ſuits which may be commenced againſt the governor of this commonwealth, any member of the privy council, any of the judges of the ſuperior courts, or the ſheriff of any county, during his continuance in office, inſtead of the ordinary proceſs, a ſummons ſhall iſſue to the ſheriff, or other proper officer, reciting the cauſe of action, and ſummoning ſuch defendant to appear and anſwer the ſame on the proper return day, in the next court; and if ſuch defendent, being ſummoned, or after a copy ſhall have been left at his houſe ten days before the return day, ſhall not appear to anſwer the ſame, the court ſhall proceed againſt ſuch defendant, in the ſame manner as if he had been taken upon a capias ad reſpondendum. *Provided always*, that after judgment and the return of a fieri facias by the ſheriff of that county in which the defendant in any ſuch caſe reſides, that no effects, or not ſufficient are to be found in his bailiwick to ſatisfy the ſaid judgment, a capias ad ſatisfaciendum may be iſſued, as in other caſes. *(b)*

XIX. In all actions to recover the penalty for breach of any penal law, not particularly directing ſpecial bail to be given, in actions of ſlander, treſpaſs, aſſault and battery, actions on the caſe for trover, or other wrongs, and all perſonal actions, except ſuch as ſhall be herein after particularly mentioned, the plaintiff or his attorney, ſhall, on pain of having his ſuit diſmiſſed with coſts, indorſe on the original writ, or ſubſequent proceſs, the true ſpecies of action, that the ſheriff to whom the ſame is directed, may be thereby informed whether bail is to be demanded on the execution thereof; and in the caſes before mentioned. the ſheriff may take the engagement of an attorney practiſing in the county court, indorſed on the writ that he will appear for the defendant or defendants, and ſuch appearance ſhall be entered with the clerk in the office on the firſt day after the end of the court to which ſuch proceſs is returnable. And although no ſuch engagement of an attorney ſhall be offered to the ſheriff, he ſhall nevertheleſs be reſtrained from committing the deſendant to priſon, or detaining him in his cuſtody for want of appearance bail; but the ſheriff in ſuch caſe ſhall return the writ executed, and if the defendant ſhall fail to appear thereto, there ſhall be the like proceeding againſt him only, as is herein after directed againſt defendants and their appearance bail, where ſuch is taken. *Provided always*, that any juſtice of the peace, in actions of treſpaſs, aſſault and battery, trover, and converſion, and in actions on the caſe, where, upon proper affidavit, or affirmation, it ſhall appear to him proper that the defendant or defendants ſhould give appearance bail, may, and he is hereby authorized to direct ſuch bail to be taken by indorſement on the original writ, or ſubſequent proceſs; and every ſheriff ſhall govern himſelf accordingly.

XX. In all actions of debt founded upon any writing obligatory, bill, or note in writing, for the payment of money or tobacco, all actions of covenant or detinue, in which caſes the true ſpecies of action ſhall be indorſed on the writ, as before directed, and that appearance bail is to be required, the ſheriff ſhall return on the writ, the name of the bail by him taken, and a copy of the bail-bond to the clerk's office before the day of appearance; and if the defendant ſhall fail to appear accordingly, or ſhall not give ſpecial bail, being ruled thereto by the court, the bail for appearance may defend the ſuit, and ſhall be

(a) 1748. c. 4. § 13, & 14. *(b)* 1788. c. 67. § 25.

ſubject to the ſame judgment and recovery, as the defendant might or would be ſubject to, if he had appeared and given ſpecial bail; and in actions of detinue the bail-piece ſhall be ſo changed, as to ſubject the bail to the reſtitution of the thing, whether animate or inanimate, ſued for, or the alternative value, as the court may adjudge.

XXI. And if the ſheriff or other officer ſhall not return bail, and the copy of the bail bond, or the bail returned ſhall be adjudged inſufficient by the court, and the defendant ſhall fail to appear and give ſpecial bail, if ruled thereto, in ſuch caſe the ſheriff or other officer may have like liberty of defence, and ſhall be ſubject to the ſame recovery as is provided in the caſe of appearance bail. And if the ſheriff or other officer depart this life before judgment be confirmed againſt him, in ſuch caſe the judgment ſhall be confirmed on his executors or adminiſtrators or if there ſhall not be a certificate of probat or adminiſtration granted, then it may be confirmed againſt his eſtate, and a writ of fieri facias may in either caſe be iſſued: but the plaintiff ſhall object to the ſufficiency of the bail during the ſitting of the court next ſucceeding that to which the writ is returnable, or in the office on the firſt or ſecond rule day, and at no time thereafter. *(a)*

XXII. And upon appearance of the defendant in any perſonal action, where the plaintiff ſhall move that the defendant may be held to ſpecial bail, the court may, if they ſee cauſe, rule him to give bail accordingly, or commit him in cuſtody of the ſheriff or other officer till ſuch bail be given; and the perſon and perſons becoming ſpecial bail, ſhall be liable to the judgment and recovery againſt ſuch defendant, unleſs he render his body in execution in diſcharge of his bail. *(b)*

XXIII. No bail ſhall be demanded on a writ of capias ad reſpondendum, which ſhall be iſſued againſt a reſident of one county in any other, until a non eſt inventus has been returned in the county or corporation in which the defendant reſides, upon a capias iſſued in the ſame ſuit againſt ſuch defendant, and every writ iſſued contrary thereto without an indorſement of "no bail required," ſhall be voidable at any time before iſſue joined, or judgment by default, nil dicit or non ſum informatus thereon, but not afterwards. *Provided*, That no ſuch writ iſſuing from the county orporation in which the cauſe of action accrued, ſhall be voidable by reaſon of bail being required thereon. *(c)*

XXIV. Any juſtice of the peace, when the courts are not ſitting, may take recognizance of ſpecial bail in any action therein depending, which ſhall be returned by the juſtice taking the ſame to the clerk of the court before the next ſucceeding quarterly court, to be filed with the papers in ſuch action. *(d)*

XXV. If the plaintiff or his attorney ſhall except to the ſufficiency of the bail ſo taken by a juſtice out of court, notice of ſuch intended exception ſhall be given to the defendant or his attorney, at leaſt five days previous to the day at which ſuch exception ſhall be taken; and if ſuch bail ſhall be adjudged inſufficient by the court, the recognizance thereof ſhall be diſcharged, and ſuch proceedings ſhall be had, as if no ſuch bail had been taken. *(d)*

XXVI. The ſame proceedings ſhall be had againſt the common bail and ſheriff, or other officer in any ſuit, or either of them, their executors or adminiſtrators, and they or either of them, may have the ſame remedy againſt the defendant, or his executors or adminiſtrators, in the county and corporation courts at their quarterly ſeſſions, as is directed to be had in any diſtrict court in ſuch caſes. *(d)*

XXVII. All imparlances to be taken, and pleadings to be filed, both in common law and in chancery, until an iſſue is joined, or interlocutory decree or judgment obtained, ſhall be done at rules to be held monthly in the clerk's office, on ſuch days as the courts at their reſpective quarter ſeſſions, ſhall appoint; which rules ſhall be diſtinctly entered in a book, to be kept for that purpoſe, and the clerk ſhall be allowed the ſame fees for entering ſuch rules, as if the ſame had been made in court. *(d)*

XXVIII. All rules to declare, plead, reply, rejoin, and for other proceedings, ſhall be given from month to month, and ſhall be made and entered with the clerk of the court, in

(a) 1748 c. 4. § 16. *(b)* 1748 c 4 § 17. *(c)* 1787. c. 10. § 4. *(d)* 1787. c. 10. § 2.

the ſame manner as rules are made and entered with the clerks of the diſtrict courts, in ſuits depending in them. *Provided nevertheleſs*, That the court may at their quarterly ſeſſion next after any of the ſaid rules and proceedings have been had in the clerk's office, for good cauſe to them ſhewn, ſet aſide any of the ſaid rules and proceedings, and make ſuch order concerning the ſame, as to them may appear juſt and right. *(a)*

XXIX. Where any final judgment ſhall be entered up in the office againſt any defendant or defendants and their ſecurities, or againſt any defendant or defendants and ſheriff or other officer, by default, execution may iſſue thereon after the next ſucceeding quarterly court, unleſs the ſame be ſet aſide during ſuch court, in like manner as office judgments in the diſtrict courts may be ſet aſide; and all office judgments ſo ſet aſide, ſhall be immediately put at the end of the iſſue docket. *(a)*

XXX. On writs of ſcire facias for renewal of judgments, no judgment ſhall be rendered on the return of two nihils, unleſs the defendant reſide in the county or corporation, or unleſs he be abſent from the commonwealth, and have no known attorney within the ſame. But ſuch ſcire facias may be directed to the ſheriff or other officer of any county or corporation in this commonwealth, wherein the defendant or his attorney ſhall reſide, or be found; which being returned ſerved, the court may proceed to judgment thereon, as if the defendant had reſided in the county or corporation.

XXXI. The clerk ſhall proportion the cauſes upon the docket, from the firſt day of the court to the ſixth, both incluſive, if in his opinion ſo many days will be expended in trying the cauſes ready for trial, and iſſue ſubpœnas for witneſſes to attend the days to which the cauſes ſtand for trial. He ſhall docket the cauſes in order as they are put to iſſue, and no cauſe ſhall be removed from its place on the docket, unleſs where the plaintiff at the calling the ſame, be unprepared for trial, in which caſe, and no other, ſhall the cauſe be put at the end of the docket. *(a)*

XXXII. And for the better aſcertaining what proceſs may be ſued out, where the ſheriff or other officer returns that the defendant is not to be found in his bailiwick: *It is hereby further enacted*, That where any ſheriff, or other officer, ſhall make ſuch return, the plaintiff or plaintiffs in any civil action, ſhall and may ſue out an attachment againſt the eſtate of ſuch defendant, returnable as hereinbefore is directed for the returns of original and other ſubſequent proceſs thereupon, to force an appearance, or an alias or pluries capias, at the election of the plaintiff or plaintiffs; and if the ſheriff or other officer ſhall return any goods by him attached, the plaintiff ſhall file his declaration, and be entitled to a judgment for his whole debt, and the goods ſo attached ſhall remain in cuſtody of the ſheriff till ſuch judgment obtained, and then be ſold and diſpoſed of, in the ſame manner as goods taken in execution upon a writ of fieri facias; and if the judgment ſhall not be ſatisfied by the goods attached, the plaintiff may have an execution for the reſidue. *Provided always*, That all goods ſo attached, ſhall and may be replevied by the defendant's giving bond and ſecurity to the ſheriff or other officer attaching the ſame, in like manner as by law is directed on the execution of meſne proceſs, or by the defendant's appearance, and putting in good bail, if ruled by the court to give ſpecial bail. But no ſheriff ſhall return upon any writ to him directed, that the defendant is not found in his bailiwick, unleſs ſuch ſheriff or his officer, ſhall have actually been at the dwelling-houſe, or place of abode of ſuch defendant, and not finding him ſhall have there left an atteſted copy of the ſame writ or proceſs; and where any defendant ſhall be a known inhabitant of another county, and not of the county of that ſheriff to whom the proceſs ſhall be directed, ſuch ſheriff ſhall return the truth of the caſe, but not that the perſon is not found in his county, and thereupon ſuch proceſs iſſued from any county court clerk's office, as to ſuch defendant, ſhall abate and be diſmiſſed. *(b)*

XXXIII. The clerk of the court ſhall carefully preſerve the declarations, pleas, evidences, and all other papers relating to any cauſe in court, and they ſhall be all filed together in the office. *(c)*

XXXIV. In all caſes where the title or bounds of any eſtate in land is determined, the

(a) 1787. c. 30. § 2. *(b)* 1748. c. 4. § 18. *(c)* 1748. c. 4. § 19.

pleadings ſhall be all in writing, and ſhall be entered at large with the judgment thereupon, in particular books kept for that purpoſe only. *(a)*

XXXV. And for preventing errors in entering the judgments of the court, the juſtices, before every adjournment, ſhall cauſe the minutes of their proceedings to be publicly read by the clerk, and corrected where neceſſary, and then the ſame ſhall be ſigned by the firſt juſtice in commiſſion then ſitting; which minutes ſo ſigned, ſhall be taken in a book, and carefully preſerved among the records; and no proceedings or judgments of any court, ſhall be of force, or valid, until the ſame be ſo read and ſigned. *(a)*

XXXVI. And for prevention of delay and vexation, by dilatory pleas, *It is hereby further enacted and declared*, That in all perſonal actions, where the declaration ſhall plainly ſet forth ſufficient matter of ſubſtance for the court to proceed upon the merits of the cauſe, the ſuit ſhall not abate for want of form; and that where a plea in abatement ſhall be pleaded in any action, and upon argument the ſame ſhall be adjudged inſufficient, the plaintiff or plaintiffs in ſuch action ſhall recover againſt the defendant or defendants full coſts, to the time of overruling ſuch plea, including the coſts of that court, a lawyer's fee only excepted. *(b)*

XXXVII. Any debt or penalty, amounting to more than five dollars, or two hundred pounds of tobacco, and not exceeding twenty dollars, or eight hundred pounds of tobacco, may be demanded by petition to the court of a county, city, or borough. The clerk of the court ſhall draw the petition, ſtating therein how the debt became due, or by breach of what act of aſſembly the penalty was incurred, and ſhall iſſue a ſummons directed to the ſheriff or other proper officer, commanding him to ſummon the defendant to appear and anſwer the petition; and the defendant being ſummoned ten days at leaſt before the return day, and being at the ſame time ſerved with a copy of the petition, together with a copy of the account which ſhall be filed, when the debt ſhall have ariſen by account, the court ſhall, and may hear and determine the matter in diſpute in a ſummary way, and give ſuch judgment as ſhall appear to be juſt. *(c)*

XXXVIII. Any perſon may, by petition, to be ſerved and tried in like manner, demand and recover goods detained, or the value of them, and damages for the detention, or damages for goods found by the defendant, and converted to his uſe, where the goods with the damages are not of greater value than twenty dollars, or eight hundred pounds of tobacco. Whoſoever ſhall bring any other action than a petition, if it appear, either by his own ſhewing in the declaration, or by the verdict of a jury, that he might have brought a petition by this act, ſhall be non-ſuit. *(c)*

XXXIX. In all ſuits in the county or corporation courts in chancery, the following rules and methods ſhall be put in practice and obſerved, to wit: *(d)*

XL. The complainant ſhall file his bill on the firſt rule day after the return of the ſubpœna executed, or upon the firſt appearance of the defendant, upon pain of having the ſame diſmiſſed by the defendant; and if he ſhall fail to file the ſame within three months from the time of ſuch return, the ſuit ſhall ſtand diſmiſſed with coſts. *(e)*

XLI. Upon the complainant's diſmiſſing his bill, or the defendant's diſmiſſing the ſame for want of proſecution, the defendant ſhall recover his coſts. *(f)*

XLII. The complainant may amend his bill before the defendant appears, or in a ſmall matter, afterwards, without paying coſts; but if he amend after appearance, and in a material point, whereby the defendant ſhall be put to any extraordinary coſts, ſuch coſts ſhall be paid before the complainant ſhall be at liberty to amend his bill. *(f)*

XLIII. If any defendant ſhall not appear upon attachment returned executed, or being brought into court upon any ſuch proceſs, ſhall obſtinately refuſe to anſwer the complainant's bill, ſuch bill ſhall be taken for confeſſed, and the matter thereof decreed accordingly. *(f)*

XLIV. The defendant ſhall file his anſwer at the next rules after his appearance, and

(a) 1748. c. 4. § 19. *(b)* 1748. c. 4. § 20. *(c)* 1786. c. 62. *(d)* 1748. c. 4. § 25. *(e)* 1748. c. 4. § 25.—& 1787. c. 9. § 2. *(f)* 1748. c. 4. § 25.

bill filed, and if no anſwer be then put in, an attachment may be awarded, returnable to the next court; and if no anſwer be put in upon return of the attachment executed, the complainant's bill ſhall be taken for confeſſed, and the matter thereof decreed. *(a)*

XLV. And if the attachment be returned not executed, an attachment with proclamation ſhall be iſſued, and if upon the return thereof no anſwer ſhall be put in, the complainant's bill ſhall be taken for confeſſed, and the matter decreed as aforeſaid. *(a)*

XLVI. No proceſs of contempt ſhall iſſue without oath made of the ſervice of the ſubpœna, unleſs the ſame be returned ſerved by a ſworn officer. *(a)*

XLVII. If the defendant does not file his anſwer within three months after the plaintiff ſhall have filed his bill, having alſo been ſerved with the ſubpœna at leaſt three months before the ſaid time for filing his anſwer, the plaintiff may proceed to take his bill for confeſſed, and proceed in the ſame manner as in the caſe of an attachment returned executed, or he may have a general commiſſion to take depoſitions, or he may move the court to bring in the defendant to anſwer interogatories, at his election, and proceed on to hearing in the two laſt caſes, as if the anſwer had been filed, and the cauſe was at iſſue: *Provided*, That the court, for good cauſe ſhewn, may allow the anſwer to be filed, and grant a further day for ſuch hearing. *(b)*

XLVIII. Every defendant ſhall be at liberty to ſwear to his anſwer, before any juſtice of the peace. *(c)*

XLIX. When any croſs bill ſhall be preferred, the defendant or defendants in the firſt bill ſhall anſwer thereto, before the defendant or defendants in the ſecond bill ſhall be compellable to put in his or their anſwer to ſuch croſs bill. *(c)*

L. The complainant ſhall reply or file exceptions, at the next rules after the defendant's putting in his anſwer; and if the complainant ſhall not then reply, nor file exceptions, his bill ſhall be diſmiſſed with coſts. *(c)*

LI. When the complainant files exceptions againſt the anſwer of any defendant or defendants, as inſufficient, if the defendant puts in a ſufficient anſwer at the next rules, the ſame ſhall be received without coſts, but if the defendant's attorney inſiſts on the ſufficiency of the anſwer put in, and neglects or refuſes to put in a ſufficient anſwer, or ſhall put in another inſufficient anſwer, the plaintiff may ſet down his exceptions, to be argued the next court; and after exceptions ſo filed, or any ſecond inſufficient anſwer put in, no further or other anſwer ſhall be received, but upon payment of coſts. *(c)*

LII. And if upon argument, the complainant's exceptions ſhall be over-ruled, or the defendant's anſwer adjudged inſufficient, the complainant ſhall pay to the defendant, or the defendant to the complainant, as the caſe ſhall be, ſuch coſts as ſhall be allowed by the court. *(c)*

LIII. Upon every ſecond anſwer adjudged inſufficient, coſts ſhall be doubled. If any defendant ſhall put in a third inſufficient anſwer, which ſhall be ſo adjudged, ſuch defendant ſhall be examined upon interrogatories, and committed till he ſhall perfectly anſwer thoſe interrogatories, and pay coſts. *(c)*

LIV. If the defendant after proceſs of contempt, put in an inſufficient anſwer, which ſhall be ſo adjudged, the complainant ſhall not be obliged to take out a new ſubpœna, but may go on to the attachment with proclamation, as if no anſwer had been put in. *(c)*

LV. Where the complainant conceives ſufficient matter to be confeſſed by the defendant's anſwer, he may ſet down the cauſe for, and proceed to hearing. *(c)*

LVI. After anſwer filed, and no plea in abatement to the juriſdiction of the court, no exception for want of juriſdiction ſhall ever afterwards be made, nor ſhall the high court of chancery, or any other court ever thereafter, delay or refuſe juſtice, or reverſe the proceedings for want of juriſdiction, except in caſes of controverſy reſpecting lands lying without the juriſdiction of ſuch court, and alſo of infants and femes covert. *(d)*

LVII. No defendant ſhall be admitted to put in a rejoinder, unleſs it be filed at the next

(a) 1748, c. 4. § 25. *(b)* 1787. c. 9. § 2. *(c)* 1748. c. 4. § 25. *(d)* 1787. c. 9. § 2.

rules after replication put in, but the complainant may proceed to the examination of witneſſes. (*a*)

LVIII. After an attachment with proclamation returned, no plea or demurrer ſhall be received, unleſs by order of court, upon motion. (*a*)

LIX. If the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may ſet it down to be argued; or if he thinks the plea good, but not true, he may take iſſue upon it, and proceed to proceſs; and if ſuch plea ſhall be adjudged falſe, the complainant ſhall have the ſame advantage as if the ſame plea were found falſe by verdict at the common law. (*a*)

LX. If a plea be pleaded, or demurrer put in, and over-ruled, no other plea or demurrer ſhall thereafter be received, but the defendant ſhall anſwer the allegations of the bill. (*a*)

LXI. The complainant at the next rules after a plea or demurrer put in, may cauſe the ſame to be ſet down to be argued; but if the complainant ſhall not proceed to have the ſame ſet down, before the ſecond court after plea or demurrer put in, the bill may be diſmiſſed of courſe, with coſts. (*a*)

LXII. Upon a plea or demurrer argued and over ruled, coſts ſhall be paid as where an anſwer ſhall be adjudged inſufficient, and the defendant ſhall anſwer at the next rules; but if adjudged good, the defendant ſhall have his coſts (*a*)

LXIII. If any defendant ſhall obſtinately inſiſt on a demurrer, and refuſeth to anſwer, where the court ſhall be of opinion that ſufficient matter is alledged in the bill to oblige him to anſwer, and for the court to proceed upon, the bill ſhall be taken for confeſſed, and the matter thereof decreed accordingly. (*a*)

LXIV. The ſaid court in its diſcretion may direct an iſſue to be tried at their own bar whenever it ſhall be judged neceſſary.

LXV. The right of appeal from the county and corporation courts to the high court of chancery, and to the diſtrict courts, ſhall be exerciſed in the ſame manner as preſcribed in the acts "Reducing into one the ſeveral acts concerning the high court of chancery," and, "Reducing into one the ſeveral acts concerning the eſtabliſhment, juriſdiction, and powers of diſtrict courts."

LXVI. If the plaintiff or demandant appeals, then the ſpecial bail given by the defendant or tenant in the county or inferior court, ſhall alſo ſtand bound to anſwer the judgment of the diſtrict court, and ſuch appellant ſhall give bond with ſecurity, in the ſum of ſixty three dollars and thirty-three cents, that he will proſecute his appeal with effect; and if he do not appear and proſecute the ſame, his bond ſhall be forfeited to the defendant or appellee. (*b*)

LXVII. No writ or writs of certiorari ſhall be received or allowed by the juſtices of any county court or other inferior court, to whom any ſuch writ or writs ſhall be directed and delivered, nor ſhall any cauſe be removed by habeas corpus after iſſue or demurrer joined, in the cauſe or cauſes depending in ſuch court or courts, and intended to be removed by ſuch writ or writs, but they ſhall and may proceed in the ſaid cauſe or cauſes as though no ſuch writ had been ſued forth, or delivered to them or any of them; and if any cauſe be removed or ſtayed by ſuch writ, and afterwards the ſame cauſe ſhall be remanded, or ſent back again, by any writ of procedendo, or other writ whatſoever, ſuch cauſe ſhall never afterwards be removed, or ſtayed before judgment, by any other writ or writs whatſoever, to be ſued forth from either of the diſtrict courts, or from the high court of chancery. (*c*)

LXVIII. Before any injunction in chancery ſhall be granted to ſtay proceedings at law in any action, ſuit, or judgment whatſoever, in any county or corporation court, if the court ſhall not be otherwiſe ſatisfied with the matter of equity, the party praying ſuch injunction ſhall make oath before the court, or before ſome magiſtrate, of the truth of the allegations of his injunction-bill; which affidavit ſhall be certified at the foot of the bill,

(*a*) 1748. c. 4 § 25. (*b*) 1748. c. 4. § 27. (*c*) 1748. c. 4. § 28.

and he, ſhe, or they, ſhall moreover enter into bond, with one or more ſufficient ſecurities, in the clerk's office, for ſatisfying and paying all ſuch ſums of money and tobacco, and coſts, which ſhall be then due, or become due, to the plaintiff or plaintiffs, in the action, ſuit or judgment, ſo to be ſtayed, and alſo for the payment of ſuch coſts as ſhall be awarded againſt him, her, or them, in caſe the injunction ſhall be diſſolved, and the clerk ſhall endorſe on the ſubpœna that the bond is filed.

LXIX. The proceedings of the ſaid courts in common law caſes, ſhall, as nearly as may be, conform to the practice in the diſtrict courts. And in chancery caſes, the ſame ſhall conform to the practice of the high court of chancery in like caſes, except in ſuch caſes as are or ſhall be otherwiſe particularly directed by any act of the general aſſembly.

LXX. The clerks of the ſeveral county and corporation courts in this commonwealth ſhall be, and they are hereby empowered and required, upon the application of any party who hath obtained, or ſhall obtain any judgment, decree, or final order in ſuch courts, to iſſue any legal or proper writ of execution or attachment as the caſe may require, as alſo to iſſue attachments againſt executors, adminiſtrators, or guardians, who ſhall fail to account when ordered ſo to do by ſuch court, directed to the ſheriff of the ſame, or any other county, provided there be fifteen days at leaſt, and not more than ninety days, between the teſte and return of ſuch writ.

LXXI. Nothing in this act before contained, ſhall be conſtrued to enlarge, alter, or abridge any of the powers, juriſdictions, or conſtitutions of any court of any city, town, corporation, or borough, within this commonwealth, but the ſame ſhall remain as if this act had not been made; any thing herein to the contrary, or ſeeming to the contrary, notwithſtanding: *Provided always*, That the reſpective corporation courts, or courts of huſtings of any city, town, or borough, ſhall have juriſdiction only in ſuits or controverſies inſtituted between the reſpective inhabitants or citizens of ſuch city, town, or borough, and between one or more of the inhabitants of ſuch city, town, or borough, and any perſon or perſons not an inhabitant or inhabitants of this commonwealth, and in either caſe only where the contract hath been made, or the cauſe of action hath accrued, within ſuch city, town, or borough; and in all ſuch ſuits and controverſies, their reſpective juriſdictions, ſhall not be limited to any particular ſum, but ſhall be co-extenſive with the juriſdiction of the county courts.

LXXII. Nothing in this act before contained, ſhall be conſtrued to prejudice, or in any manner affect the charters of the city of Williamſburg and borough of Norfolk, or either of them.

LXXIII. No perſon being a member of any corporation court, court of huſtings, or common-councilman of any city, town, or borough whatſoever, within this commonwealth, except common-councilmen of the city of Williamſburg, or borough of Norfolk, ſhall, while a member of ſuch corporation court, court of huſtings or common-council, be capable of acting as a juſtice of any county court.

LXXIV. The clerks of the ſeveral county and corporation courts, ſhall, annually, on or before the firſt day of July, tranſmit to the auditor a liſt of all fines impoſed by their reſpective courts within the next preceding year; and if no fine ſhall have been impoſed within ſuch period, the clerk ſhall certify accordingly. Every clerk failing to perform the aforeſaid duty, ſhall forfeit and pay one hundred and fifty dollars, to be recovered by the auditor, on motion to the general court, and applied to the uſe of the commonwealth, provided ten days previous notice be given in writing, of every ſuch motion.

The repealing clauſe is as in the appendix No. 13.

ADJOURNMENT OF COURTS.

October the 17th, 1792.

§ I. SO often as it ſhall appear neceſſary, it ſhall be lawful for the governor, with the advice of the council of ſtate, by a proclamation, bearing date one month at leaſt

before the firſt day of meeting, and diſperſed throughout the ſeveral counties, to cauſe the court of appeals, the high court of chancery, and the general court, to meet at any convenient place within this commonwealth, there to hold their reſpective ſeſſions immediately ſucceeding each proclamation. If it ſhall ſo happen that the cauſe of adjournment ſhall occur within the ſpace of a month next preceding the day of meeting, it ſhall be lawful for the governor, with the advice of the council of ſtate, by a proclamation diſperſed as aforeſaid, to poſtpone the time of meeting beyond the day, taking care that one month at leaſt ſhall intervene between the date thereof and ſuch new day, and that the new day does not fall within the month next preceding the ſtated term. *(a)*

II. If after a ſeſſion begun, a majority of the judges of the aforeſaid courts who are preſent, ſhall be of opinion, and ſo record, that they cannot ſit with ſafety at the place fixed by law, or the proclamation aforeſaid, it ſhall be lawful for them to adjourn to the ſucceeding term; and thereupon all buſineſs ſhall ſtand continued over.

III. Copies of any proclamation of adjournment ſhall be ſent under ſignature of the governor, and ſeal of the commonwealth, to each of the judges aforeſaid, whoſe court may be ſo adjourned.

IV. There ſhall be no diſcontinuance in any proceeding whatſoever, if the courts aforeſaid, or either of them, ſhould not be holden in their uſual terms.

V. It ſhall in like manner be lawful for the executive, whenſoever any building or buildings duly appointed for the holding of any court ſhall be deſtroyed, by proclamation to direct ſuch court to be holden in any other building or buildings, until the building or buildings ſo deſtroyed ſhall be rebuilt. *Provided always*, That the court of appeals, high court of chancery, and general court, ſhall continue to be holden in ſuch caſe, in the city of Richmond; the diſtrict courts in the counties in which they are appointed to be holden by law; and the county and corporation courts within their reſpective counties and juriſdictions. *(b)*

The repealing clauſe is as in the appendix No. 14.

CREDENTIALS. *See Senators of the United States.*

CRIMINALS, CRIMES, OFFENCES, AND PROSECUTIONS.

November the 13th, 1792—but commenced Oct. 1, 1793.

§ I. WHEN any perſon, not being a ſlave, ſhall be charged before a juſtice of the peace, with any criminal offence, which in the opinion of ſuch juſtice ought to be examined into by the county or corporation court, the ſaid juſtice ſhall take the recognizance of all material witneſſes to appear before ſuch county or corporation court, and immediately by his warrant commit the perſon ſo charged to the county or corporation jail, and moreover ſhall iſſue his warrant to the ſheriff of the county, or ſerjeant of the corporation, requiring him to ſummon the juſtices of the county or corporation, to meet at their courthouſe on a certain day, not leſs than five nor more than ten days after the date thereof, to hold a court for the examination of the fact, which court ſhall conſider whether, as the caſe may appear to them, the priſoner may be diſcharged from further proſecution, may be tried in the county or corporation, or muſt be tried in the diſtrict court. If they ſhall be of opinion, that the fact may be tried in the county or corporation, the priſoner ſhall be bound over to the next grand jury, to be held for that county or corporation, then to be tried, or, upon refuſing to give ſufficient bail, ſhall be remanded to the county co

(a) May 1787, c. 1. *(b)* 1788, c. 73.

corporation jail, there to remain until ſuch court, or until he or ſhe ſhall be bailed. If they ſhall be of opinion that the priſoner ought to be tried in the diſtrict court, they ſhall take the depoſitions of witneſſes, and bind ſuch as they ſhall think proper, by recognizance to appear and give evidence againſt ſuch criminal at his or her trial, and having remanded the priſoner to jail, any two of the juſtices by warrant under their hands and ſeals, ſhall direct the ſheriff or his deputy, or ſerjeant, to remove the priſoner, and commit him or her to the diſtrict jail, there to be ſafely kept until he or ſhe ſhall be diſcharged by due courſe of law; by virtue of which warrant the ſheriff or his deputy, or ſerjeant, as ſoon as may be, ſhall remove the priſoner, and deliver him or her with the warrant to the keeper of the diſtrict jail, who ſhall receive and keep him accordingly. And for enabling the ſheriff or his deputy, or ſerjeant, ſafely to convey and deliver ſuch priſoner, the ſaid two juſtices, by their warrant, ſhall empower him, as well within his county as without, to impreſs ſuch and ſo many men, horſes, and boats, as ſhall be neceſſary for the guard and ſafe conveyance of the priſoner, proceeding therein as the law may direct in caſes of impreſſing on other occaſions; and all perſons are to pay due obedience to ſuch warrant. *(a)*

II. If ſuch priſoner ſhall in the opinion of the court, be bailable by law, they ſhall enter that opinion in their proceedings, and alſo the ſums of money in which he and his bail ought to be bound, and he or ſhe ſhall not be removed within twenty days after the examining court, but ſhall and may be admitted to bail, before any juſtice of the ſame county or corporation within that time, or at any time afterwards before any judge of the general court. When any priſoner ſhall be thus admitted to bail by any judge of the general court, the judge ſhall tranſmit the recognizance to the clerk of the diſtrict court, and give a warrant for the deliverance of the priſoner; and the warrant being put into the hands of the officer in whoſe cuſtody the priſoner ſhall be, he ſhall thereupon be delivered, if he be detained for no other cauſe. *(b)*

III. Any two judges of the general court when it is not ſitting, may admit to bail a priſoner when they ſhall think him or her entitled thereto, and grant a warrant for his deliverance, notwithſtanding the juſtices before whom the examination was, ſhall have been of a different opinion. *(c)*

IV. When the juſtices ſhall have determined that a priſoner ought to be tried for an offence in the diſtrict court, the clerk of the court where ſuch examination ſhall be had, ſhall iſſue a venire facias to be directed to the ſheriff or ſerjeant, commanding him to cauſe twelve good and lawful men, freeholders of his county or corporation, of the neighbourhood of the place where the fact ſhall have been committed, to come before the judges of the diſtrict court, at the time the witneſſes ſhall be bound to appear there, which writ ſhall be executed by the ſaid ſheriff or ſerjeant, and the freeholders ſummoned by virtue thereof, or ſuch of them as appear and be not challenged, together with ſo many other good and lawful men of the by-ſtanders, being freeholders within this commonwealth, as will make the number twelve, or if the whole array be challenged, twelve of ſuch by-ſtanders ſhall be a lawful jury for the trial of the priſoner. No juſtice of the peace, or member of a corporation court, who ſhall have committed any perſon for examination by the court of his county or corporation, or ſhall have been a member of the examining court, ſhall be ſworn on the petit jury impannelled for the trial of ſuch perſon. *(c)*

V. After any perſon ſhall be indicted of treaſon, or felony, if he or ſhe be not already in cuſtody, the ſheriff ſhall be commanded to attach his or her body, by writ, or by precept which is called a capias, and if he return that the body is not found, another writ or precept of capias, ſhall be immediately made returnable forthwith, in which the ſheriff ſhall alſo be commanded to ſeize his or her chattels, and ſafely to keep them; and if he return that the body is not found, and the indictee cometh not, an exigent ſhall be awarded, and the chattels ſhall be ſequeſtered; but if he or ſhe come, and yield himſelf or herſelf, or if he or ſhe

(a) 1788, c 67 § 95 *(b)* 1783 c 67 § 95—& 1786 c 57 *(c)* 1786 c 57

be taken before the return of the fourth capias, the goods and chattels ſhall be ſaved to him or her, otherwiſe they ſhall go and be veſted as by law is herein-after directed. *(a)*

VI. In all trials for ſuch offences, the priſoner ſhall have a copy of the indictment, and of the pannel of the jurors, who are to try him or her, whenſoever he or ſhe ſhall require it before trial or ſentence. *(a)*

VII. Whenſoever an inqueſt be about to be taken in any court, in which inqueſt the commonwealth is a party, if he who appears and ſues in behalf of the commonwealth, will challenge any of the jurors, he ſhall aſſign a cauſe certain for his challenge, and the truth of ſuch challenge ſhall be judged of by the court; and if ſuch challenge be ſufficient, the juror ſhall be rejected, or if inſufficient, he ſhall be admitted, and in either caſe the inqueſt ſhall be proceeded in. *(b)*

VIII. No perſon arraigned for treaſon, ſhall be admitted to a peremptory challenge above the number of twenty-four, nor ſhall any perſon arraigned for murder or felony, be admitted to a peremptory challenge above the number of twenty. *(c)*

IX. When the grand jury ſhall have preſented to the diſtrict court, a bill of indictment againſt any perſon charged with treaſon or felony, the court ſhall cauſe the offender to be arraigned and tried the ſame term, if he be in the cuſtody of the jailor, or if he be bailed and forth-coming agreeable to his recognizance, unleſs they ſee good cauſe to adjourn the trial to the next term; and ſhall allow him counſel to aſſiſt him at his trial if he deſire it. *(d)*

X. When any priſoner committed for treaſon or felony, ſhall apply to the court the firſt day of the term, by petition or motion, and ſhall deſire to be brought to his trial before the end of the term, and ſhall not be indicted in that term, unleſs it appear by affidavit that the witneſſes againſt him cannot be produced in time, the court ſhall ſet him at liberty, upon his giving bail in ſuch penalty as they ſhall think reaſonable, to appear before them at a day to be appointed of the ſucceeding term. Every perſon charged with ſuch crime, who ſhall not be indicted before, or at the ſecond term after he ſhall have been committed, unleſs the attendance of the witneſſes againſt him appears to have been prevented by himſelf, ſhall be diſcharged from his impriſonment, if he be detained for that cauſe only; and if he be not tried at or before the third term after his examination before the juſtices, he ſhall be forever diſcharged of the crime. *(d)*

XI. If a priſoner ſhall deſire any witneſſes to be ſummoned for him or her to appear, either at the examining court, or on the trial at the diſtrict court, the clerk of the ſaid court, or of the county or corporation court, (as the caſe may be) ſhall iſſue ſubpœnas for ſuch witneſſes, who, being ſummoned, and attending, ſhall have the like allowance for travelling and attendance, and be ſubject to the ſame penalty for failing to attend, as is provided for witneſſes in civil caſes. *(e)*

XII. Execution of a ſentence of death ſhall not be done in leſs than thirty days after judgment ſhall have been given againſt the priſoner. *(f)*

XIII. Where the priſoner ſhall be convicted, and hath eſtate ſufficient to pay the charges of proſecution, the whole ſhall be paid out of ſuch eſtate, and the public only made chargeable where there is no eſtate, or not ſufficient to be found; and the auditor is hereby directed to tranſmit to the ſheriff of the county where the eſtate of the ſaid priſoner ſhall be, an account of the ſaid expences, and the ſheriff ſhall diſtrain and be accountable for the ſame as for public taxes. *(g)*

XIV. To the end that a certain and adequate mode may be fixed by law for the regular payment of the expences attending the examination and trial of criminals in the county and other inferior courts, in all caſes where ſuch expences ought to be paid by the public: *Be it enacted*, That the ſeveral county and corporation courts within this commonwealth, having juriſdiction in ſuch examinations and trials, ſhall annually, in the month of September

(a) 1786 c 57 *(b)* 1789 c 30 § 3 *(c)* 1789 c 30 § 4 *(d)* 1786 c 57 *(e)* 1788 c 67 § 101 *(f)* 1786 c 57 *(g)* 1788 c 67 § 112

or October, cauſe to be certified to the auditor of public accounts, all claims for expences accruing after the firſt day of January, one thouſand ſeven hundred and eighty-eight, from the examination and trial of criminals, for guards and maintenance of criminals in their reſpective counties and corporations, for conveying them to the diſtrict jails for further trial, and for impriſonments for miſdemeanor or breach of the peace, and all other charges properly chargeable to the public, together with the vouchers on which ſuch claims have been allowed; and the auditor is hereby authoriſed and required to liquidate and adjuſt the ſaid claims, and to grant warrants on the treaſury to the reſpective claimants for the amount of their claims. *(a)*

XV. The clerks of the diſtrict courts ſhall enter into books to be kept for that purpoſe, the names of jurors attending for the trial of priſoners, and the names of witneſſes appearing on behalf of the commonwealth or the priſoner, with accounts of the days they ſhall have attended, the ferries they ſhall have croſſed, and the diſtances they ſhall have travelled on that occaſion, and certify ſuch entries to the auditor of public accounts. *(b)*

XVI. Where any perſon ſhall be feloniouſly ſtricken or poiſoned in one county or corporation, and ſhall die of the ſame ſtroke or poiſoning in another county or corporation, the offender ſhall be examined according to law, by the court of the county or corporation where ſuch ſtroke was given, or poiſon adminiſtered, and he ſhall be tried in the court of the diſtrict in which ſuch county or corporation lies. *(c)*

XVII. In like manner an acceſſory to a murder or felony committed, ſhall be examined by the court of that county or corporation, and tried by the court of that diſtrict in which he became acceſſory; and ſhall anſwer upon his arraignment, and receive ſuch judgment, order, execution, pains, and penalties, as are uſed in other caſes of murder or felony. *(d)*

XVIII. Whenſoever in treaſon or felony any perſon ſhall ſtand mute on his arraignment, or perſiſts after being admoniſhed by the court in not anſwering to the indictment, or in peremptorily challenging above the number of jurors which by law he may be allowed to challenge peremptorily, or ſhall be out-lawed, he ſhall be conſidered as convicted, and the ſame judgment, execution, and diſabilities, ſhall take place and be awarded as if he had been convicted by verdict, or confeſſion of the crime. *(e)*

XIX. If treaſon or felony be committed in a county or corporation, different from that in which the culprit ſhall be arreſted, any juſtice of that county or corporation, in which he or ſhe is arreſted, may, by his warrant, cauſe the offender to be put into the cuſtody of the ſheriff or ſerjeant, to be by him conveyed to the county or corporation where the offence was committed (and every ſheriff or ſerjeant while he ſhall officiate in execution of this act, may impreſs ſo many men, horſes, and boats, as may be neceſſary for the ſafeguard and conveyance of the offender into ſuch other county or corporation) and there brought before ſome juſtice thereof, who ſhall proceed in like manner, as if the offender had been brought before him in the firſt inſtance; and the ſheriff or ſerjeant for removing a criminal from one county or corporation to another, ſhall be allowed the ſame fee per mile for ſuch ſervice, as is allowed to ſheriffs for removing criminals from the county to the diſtrict jail, to be paid in like manner as other expences for criminal proſecutions. *(f)*

XX. When any perſon ſhall be removed to be tried for treaſon or felony, in the diſtrict court, the clerk of the court for the county or corporation from whence the priſoner is removed, ſhall immediately after the court holden for his or her examination, tranſmit to the attorney for the commonwealth in the diſtrict court, a copy of the warrant for his or her commitment, and of the depoſitions taken on the examination. *(g)*

XXI. In indictments in which the exigent ſhall be awarded in the names of the defendants in ſuch indictments, additions ſhall be made of their eſtate or degree, or myſtery, and

(a) 1787 c 44 § 1 *(b)* 1786 c 57 *(c)* 1789 c 30 § 6 *(d)* 1789 c 30 § 7 *(e)* 1789 c 30 § 10
(f) 1786 c 57 *(g)* 1788 c 67 § 102

of the counties in which they were, or be, or in which they be, or were converſant, and if on the proceſs upon the ſaid indictments in which the ſaid additions be omitted, any out-lawries be pronounced, they ſhall be void, fruſtrate, and holden for none, and before the out-lawries be pronounced, the ſaid indictments ſhall be abated by the exception of the party wherein the ſaid additions be omitted. (*a*)

XXII. In any inquiſition or indictment, the words, "force and arms," or any particular words deſcriptive of any particular kind of force and arms, ſhall not of neceſſity be put or compriſed. (*b*)

XXIII. No indictment for high treaſon, miſpriſion of treaſon, murder, or other felony, or offence whatſoever, ſhall be quaſhed for the omiſſion of the name of any pariſh, town, ville or hamlet, within any county of this commonwealth, nor ſhall ſuch omiſſion, after conviction on ſuch indictment, be any cauſe to ſtay or arreſt judgment, nor ſhall any judgment on ſuch indictment be liable to be reverſed on a writ of error by reaſon of ſuch omiſſion. (*c*)

XXIV. No information for a treſpaſs or miſdemeanor, ſhall be filed in any court but by expreſs order of the court, entered on record, nor unleſs the party ſuppoſed to be culpable, ſhall have failed to appear and ſhew good cauſe to the contrary, having been required to do ſo by a ſummons, appointing a convenient time for that purpoſe, ſerved upon him, or left at his uſual place of abode; and the name and ſur-name of the proſecutor, and the town or county in which he ſhall reſide, with his title or profeſſion, ſhall be written at the foot of the information, before it be filed, and of every bill of indictment for any treſpaſs or miſdemeanor before it be preſented to the grand jury. (*d*)

XXV. If the grand-jury to whom ſuch a bill of indictment laſt mentioned is preferred, ſhall not find the bill, or if the defendant ſhall appear to ſhew cauſe againſt the filing ſuch information, or to anſwer ſuch information or indictment, and the proſecutor ſhall not proceed further, or if the defendant ſhall be found not guilty by the petit jury, or judgment ſhall be given for him, he ſhall recover his coſts againſt the proſecutor, with an attorney's fee, if one was employed, and the allowances to witneſſes to be taxed in the bill of coſts, and may have execution for them, as the manner is in civil caſes. (*e*)

XXVI. In every ſuch information or indictment, the fine or amercement, which ought to be according to the degree of the fault and the eſtate of the defendant, ſhall be aſſeſſed by twelve honeſt and lawful men, either thoſe by whom the offender ſhall have been convicted, in caſe of a verdict, or thoſe who ſhall be impannelled for that ſpecial purpoſe, where judgment ſhall be given againſt him upon the argument of a demurrer, or by his confeſſion of default. (*f*)

XXVII. No eſcheater, ſheriff, coroner or other inquiſitor, ſhall hereafter have power of amercement for default of common ſummons; ſave only the judges of the general and diſtrict courts, or the reſpective county or corporation courts. (*g*)

XXVIII. Upon preſentment made by the grand-jury of an offence not capital, the court ſhall order the clerk to iſſue a ſummons or other proper proceſs againſt the perſon or perſons ſo preſented, to appear and anſwer ſuch preſentment at the next court, and thereupon hear and determine the ſame according to law. (*h*)

XXIX. If any private perſon having any priſoner in his keeping, arreſted for ſuſpicion of felony, treaſon, or murder, and the perſon that is ſo arreſted, eſcape by negligent keeping, before that he be brought to the jail, then the perſon from whom ſuch priſoner ſo eſcaped, ſhall be liable to a fine on being found guilty on an indictment in the court of that diſtrict in which ſuch eſcape was made. (*i*)

XXX. No ſheriff, under ſheriff, nor eſcheater, nor any other perſon, ſhall take or ſeize

(*a*) 1789 c 30 § 1 (*b*) 1789 c 30 § 5 (*c*) 1786 c 16 § 3 (*d*) 1786 c 64 § 2 (*e*) 1786 c 16 § 3— & 25 Geo. II c 5 (*f*) 1736 c 46 § 4 (*g*) 1786 c 64 § 5 (*h*) 1788 c 67 § 109 (*i*) 1789 c 30 § 15

the goods of any perſon accuſed or indicted of, or for treaſon, murder, or other felony, except only in ſuch caſes where he ſhall be commanded by the precept of capias herein before directed, to ſeize the chattels of a perſon not in cuſtody, againſt whom an indictment for any ſuch offence ſhall heve been previouſly found, upon pain to forfeit double the value of the goods ſo taken, to him that is ſo hurt in that behalf, by action of debt, to be purſued in any court of record. (*a*)

XXXI. Whenſoever any perſon ſhall happen to be attainted, convicted, or out-lawed, of any treaſon, miſpriſion of treaſon, murder, or felony, whatſoever, there ſhall in no caſe be a forfeiture to the commonwealth, of dower, or of lands, ſlaves, or perſonal eſtate, but the ſame ſhall deſcend and paſs in like manner as is by law directed in caſe of perſons dying inteſtate; nor ſhall any attainder work a corruption of blood; any law or uſage to the contrary in any wiſe notwithſtanding. (*b*)

XXXII. Saving to all and every other perſon and perſons, bodies politic and corporate, their heirs and ſucceſſors, and to every of them (other than to ſuch offender as ſhall be attainted, convicted, or out-lawed) all ſuch right, title, intereſt, entry, leaſes, poſſeſſion, condition, profit, commodity and hereditaments, as they, or any of them, had, or ſhould, or of right ought to have, before or at the time of the ſaid attainder, conviction, or outlawry. (*c*)

XXXIII. Approvers ſhall never be admitted in any caſe whatſoever. (*d*)

XXXIV. All actions, ſuits, bills, indictments, or informations, which ſhall be had, brought, ſued, or exhibited upon any penal act of aſſembly, not affecting life or limb, made or to be made, ſhall be had, brought, ſued, or exhibited within one year next after the offence committed againſt ſuch penal act, and not after. (*e*)

XXXV. No ſpecial bail ſhall be requirable in any ſuit brought upon a penal law, unleſs by ſuch law, bail ſhall be expreſsly directed. (*f*)

XXXVI. In all caſes where a fine is laid upon the juſtices of any county, one action may be brought againſt them all jointly. (*g*)

XXXVII. Where the penalty incurred by the breach of any penal law ſhall not exceed twenty dollars, or eight hundred pounds of tobacco, the ſame may be ſued for and recovered in the manner directed by law for debts of like amount. (*h*)

XXXVIII. In all indictments for aſſaults and batteries, and other offences not capital, now depending, or hereafter to be proſecuted, it ſhall be lawful for the court before whom the ſame ſhall be depending, upon good cauſe to them ſhewn, to compel the proſecutor to find ſecurity for payment of the coſts, and if ſuch proſecutor ſhall fail to give ſecurity accordingly, the indictment ſhall be diſmiſſed with coſts.

XXXIX. All and every act and acts, clauſe and clauſes of acts, containing any thing within the purview of this act (except as herein after provided) ſhall, and the ſame are hereby repealed: *Provided always*, That nothing in this act contained, ſhall be conſtrued to repeal any act heretofore made, for ſo much thereof as may relate to any offence committed or done, or claim which may have accrued, before the commencement of this act.

DAMAGES. *See Securities.*

DAMAGES AND FINES. *See Executive.*

(*a*) 1789 c 30 § 12—& 1787 c 57 (*b*) 1789 c 30 § 13 (*c*) 1789 c 30 § 14 (*d*) 1789 c 30 § 8 (*e*) 1789 c 30 § 9 (*f*) 22 Geo. II c 4 § 17 (*g*) 27 Geo. II c 1 § 24 (*h*) 1786 c 62

DEAD BODIES. *See Ballaſt, Dead Bodies, Sick and Diſabled Seamen and Servants.*

DEATH PRESUMED.

December the 1ſt, 1786—but commenced July 1, 1787.

ANY perſon abſenting himſelf beyond ſea, or elſewhere, for ſeven years ſucceſſively, ſhall be preſumed to be dead, in any caſe wherin his death ſhall come in queſtion, unleſs proof be made that he was alive within that time. But an eſtate recovered in any ſuch caſe, if in a ſubſequent action or ſuit, the perſon preſumed to be dead, ſhall be proved to be living, ſhall be reſtored to him who ſhall have been evicted; and he may moreover demand and recover the rents and profits of the eſtate, during ſuch time as he ſhall have been deprived thereof, with lawful intereſt. (*a*)

DEBTORS. *See Abſent Debtors—Eſcapes—Public Debts—Executions—Securities.*

DEEDS. *See Conveyances.*

DEEDS MADE IN OTHER STATES. *See Foreign Deeds, Records, and other Inſtruments.*

DEDIMUS. *See Commiſſions, Depoſitions, and Dedimuſes.*

DELEGATES. *See Elections—General Aſſembly.*

DEPOSITIONS. *See Commiſſions, Depoſitions, and Dedimuſes.*

DEPUTY-SHERIFF. *See Sheriff.*

DESCENT.

December the 8th, 1792—but commenced Oct. 1, 1793.

HENCEFORTH when any perſon having title to any real eſtate of inheritance, ſhall die inteſtate as to ſuch eſtate, it ſhall deſcend and paſs in parcenary to his kindred, male and female, in the following courſe; that is to ſay: (*b*)

II. To his children or their deſcendants, if any there be: (*c*)

(*a*) St. 29 Car. II c 6 (*b*) 1785 c 60 § 1 (*c*) 1785 c 60 § 2.

III. If there be no children, nor their deſcendants, then to his father: *(a)*

IV. If there be no father, then to his mother, brothers and ſiſters, and their deſcendants, or ſuch of them as there be. *(b)*

V. Where an infant ſhall die without iſſue, having title to any real eſtate of inheritance, derived by purchaſe or deſcent from the father, neither the mother of ſuch infant nor any iſſue which ſhe may have by any perſon, other than the father of ſuch infant, ſhall ſucceed to, or enjoy the ſame, or any part thereof, if there be living any brother or ſiſter of ſuch infant on the part of the father, or any brother or ſiſter of the father, or any lineal deſcendant of either of them. Saving however, to ſuch mother any right of dower which ſhe may claim in the ſaid real eſtate of inheritance. *(c)*

VI. Where an infant ſhall die without iſſue, having title to any real eſtate of inheritance, derived by purchaſe or deſcent from the mother, neither the father of ſuch infant, nor any iſſue which he may have by any perſon other than the mother of ſuch infant, ſhall ſucceed to, or enjoy the ſame or any part thereof, if there be living any brother or ſiſter of ſuch infant on the part of the mother, or any brother or ſiſter of the mother, or any lineal deſcendant of either of them. Saving however, to ſuch father the right which he may have as tenant by the curtſey in the ſaid eſtate of inheritance. *(d)*

VII. If there be no mother, nor brother, nor ſiſter, nor their deſcendants, and the eſtate ſhall not have been derived either by purchaſe or deſcent, from either the father or the mother, then the inheritance ſhall be divided into two moieties, one of which ſhall go to the paternal, the other to the maternal kindred, in the following courſe; that is to ſay: *(e)*

VIII. Firſt, to the grand-father. *(f)*

IX. If there be no grand-father, then to the grand-mother, uncles, and aunts on the ſame ſide, and their deſcendants, or ſuch of them as there be: *(g)*

X. If there be no grand-mother, uncle nor aunt, nor their deſcendants, then to the great grand-fathers, or great grand-father, if there be but one:

XI. If there be no great grand-father, then to the great grand mothers, or great grand-mother, if there be but one, and the brothers and ſiſters of the grand-fathers and grand-mothers, and their deſcendants, or ſuch of them as there be: *(h)*

XII. And ſo on in other caſes without end; paſſing to the neareſt lineal male anceſtors, and for the want of them to the lineal female anceſtors in the ſame degree, and the deſcendants of ſuch male and female anceſtors, or to ſuch of them as there be. *(i)*

XIII. But no right in the inheritance ſhall accrue to any perſons whatever, other than to children of the inteſtate, unleſs they be in being, and capable in law to take as heirs, at the time of the inteſtate's death. *(k)*

XIV. And where, for want of the iſſue of the inteſtate, and of father, mother, brothers and ſiſters, and their deſcendants, the inheritance is before directed to go by moieties to the paternal and maternal kindred; if there ſhould be no ſuch kindred on the one part, the whole ſhall go to the other part: And if there be no kindred either on the one part or the other, the whole ſhall go to the wife or huſband of the inteſtate. And if the wife or huſband be dead, it ſhall go to her or his kindred in the like courſe, as if ſuch wife or huſband had ſurvived the inteſtate, and then died entitled to the eſtate. *(l)*

XV. And in the caſes beforementioned, where the inheritance is directed to paſs to the aſcending and collateral kindred of the inteſtate, if part of ſuch collaterals be of the whole blood to the inteſtate, and other part of the half blood only, thoſe of the half blood, ſhall inherit only half ſo much as thoſe of the whole blood: But if all be of the half blood, they

(a) 1785. c. 60. § 3. *(b)* 1785. c. 60. § 4. *(c)* 1790. c. 13. § 3. *(d)* 1790 c. 13. § 4. *(e)* 1785. c. 60. § 5.—except the words between "deſcendants," in the firſt line, and "their" in the third, which are new. *(f)* 1785. c. 60. § 5. *(g)* 1785. c. 60. § 7. *(h)* 1785. c. 60. § 9. *(i)* 1785. c. 60. § 10 *(k)* 1785. c. 60. § 11. *(l)* 1785. c. 60. § 12.

ſhall have whole portions, only giving to the aſcendants (if any there be) double portions. (*a*)

XVI. And where the children of the inteſtate, or his mother, brothers and ſiſters, or his grand-mother, uncles and aunts, or any of his female lineal anceſtors living, with the children of his deceaſed lineal anceſtors, male and female in the ſame degree, come into the partition, they ſhall take per capita, that is to ſay, by perſons; and where a part of them being dead, and a part living, the iſſue of thoſe dead have right to partition, ſuch iſſue ſhall take per ſtirpes, or by ſtocks, that is to ſay, the ſhare of their deceaſed parent. (*b*)

XVII. And where any of the children of the inteſtate, or their iſſue, ſhall have received from the inteſtate in his life-time, any real eſtate by way of advancement, and ſhall chooſe to come into partition with the other parceners, ſuch advancement ſhall be brought into hotchpot with the eſtate deſcended. (*c*)

XVIII. In making title by deſcent, it ſhall be no bar to a party that any anceſtor through whom he derives his deſcent from the inteſtate, is, or hath been an alien. Baſtards alſo ſhall be capable of inheriting or of tranſmitting inheritance on the part of their mother, in like manner as if they had been lawfully begotten of ſuch mother. (*d*)

XIX. Where a man having by a woman one or more children, ſhall afterwards intermarry with ſuch woman, ſuch child or children, if recognized by him, ſhall be thereby legitimated. The iſſue alſo in marriages deemed null in law, ſhall nevertheleſs be legitimate. (*e*)

XX. Whenſoever any lands ſhall deſcend from a perſon dying inteſtate to two or more heirs, any one of whom ſhall be an infant, feme covert, non compos mentis, or beyond ſea, and the devidend of each heir ſhall not exceed the value of one hundred dollars, in the opinion of any court herein after mentioned, it ſhall be lawful for the high court of chancery, or the court of the county or corporation in which ſuch lands, or the greater quantity of them lie, to direct the ſale of the ſaid lands, and the diſtribution of the money ariſing therefrom, according to the rights of each claimant: *Provided always*, That each heir reſiding within this commonwealth, ſhall be firſt duly ſummoned, to ſhew cauſe if any he can againſt ſuch ſale: And where any heir ſhall reſide without this commonwealth, the court ſhall make an order for publication, which order being inſerted in the Virginia Gazette for eight weeks ſucceſſively, ſhall be conſidered as a ſummons. (*f*)

XXI. One parcener may maintain an action of waſte againſt another, but no parcener ſhall have or poſſeſs any privilege over another in any election, diviſion or matter to be made or done, concerning lands which ſhall have deſcended to them. (*g*)

XXII. All and every act and acts, clauſes and parts of acts heretofore made, containing any thing within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided always*, That nothing herein contained, ſhall be conſtrued in any wiſe to affect any right, title, intereſt or claim to, or in any eſtate in lands or tenements whatſoever, accrued before the commencement of this act, but the ſame ſhall be, and remain in the ſame condition, as if this act had never been made.

DIRECTORS. *See Towns, Corporations, and Cities.*

DISABILITY. *See Offices.*

(*a*) 4785. c. 60. § 13. (*b*) 1785. c. 60. § 14. (*c*) 1785. c. 60. § 15. (*d*) 1785. c 60. § 16. (*e*) 1785. c. 60. § 17. (*f*) 1790. c. 13. § 1. (*g*) 1790. c. 13. § 6.

DISABLED SEAMEN.
DISABLED SERVANTS. } *See Ballaſt, Dead Bodies, Sick and Diſabled Seamen and Servants.*

DISFIGURING. See Maiming.

DISTRESSES. See Rents, Replevins and Diſtreſſes.

DISTRICT COURTS. See Courts.

DISTURBERS OF RELIGIOUS WORSHIP. See Suppreſſion of Vice, Drunkenneſs, Diſturbers of Religious Worſhip and Sabbath Breakers.

DIVULGERS OF FALSE NEWS.

December the 27th, 1792—but commenced Oct. 1, 1793.

§ I WHEREAS many idle and buſy headed people, do forge and divulge falſe rumours and reports:

II. *Be it therefore enacted*, That what perſon or perſons ſoever, ſhall forge or divulge any ſuch falſe reports, tending to the trouble of the country, he ſhall be by the next juſtice of the peace ſent for, and bound over to the next county court; where, if he produce not his author, he ſhall be fined forty dollars, (or leſs if the court think fit to leſſen it) and beſides, give bond for his good behaviour, if it appear to the court that he did maliciouſly publiſh or invent it. (*a*)

The repealing clauſe is as in the appendix No. 10.

DOWER.

December the 6th, 1792.

§ I. THE widow of any perſon dying inteſtate, or otherwiſe, ſhall be endowed of one full and equal third part of all the lands, tenements, and other real eſtate, whereof her huſband, or any other to his uſe, was ſeized of an eſtate of inheritance, at any time during the coverture, to which ſhe ſhall not have relinquiſhed her right of dower, by deed executed, acknowledged, and recorded, in the manner preſcribed by law for that purpoſe. (*b*)

II. And till ſuch dower ſhall be aſſigned, it ſhall be lawful for her to remain and continue in the manſion houſe, and the meſſuage or plantation thereto belonging, without being chargeable to pay the heir any rent for the ſame; any law, uſage, or cuſtom to the contrary in any wiſe, notwithſtanding. (*c*)

III. And if ſhe be thereof in the mean time deforced, ſhe ſhall have a vicontiel writ, in the nature of a writ de quarendina habenda, directed to the ſheriff; whereupon ſuch pro-

(*a*) 13. Car. II. c. 11. (*b*) 1705. c. 7. § 8—& 1785. c. 62. (*c*) 1705. c. 7. § 8.

ceedings and ſpeed ſhall be uſed, as hath or might have been uſed on the ſaid writ of quarantine. (*a*)

IV. Whoſoever ſhall deforce widows of their dowers of the lands whereof their huſbands died ſeized, or of ſuch manſion houſe or plantation, if the ſame widows ſhall afterwards recover by plea, they that be convicted of ſuch wrongful deforcement, ſhall yield damages to the ſame widows; that is to ſay, the value of the whole dower to them belonging, from the time of the death of their huſbands, unto the day that the ſaid widows by judgment have recovered ſeizin of their dower. (*b*)

V. In a writ of dower called unde nihil habit, the writ ſhall not abate by the exception of the tenant, becauſe the demandant hath received her dower of another man, before her writ purchaſed, unleſs he can ſhew that the dower ſo received was in ſatisfaction of her right of dower in the lands whereof ſhe demands dower. (*b*)

VI. In caſe where the huſband being impleaded for land by default, the woman, after his death demanding her dower, ſhall be heard, and if it be alledged againſt her, that her huſband loſt the land whereof the dower is demanded by judgment, whereby ſhe ought not to have dower, and then it be enquired, by what judgment, and it be found it was by default; whereupon the tenant muſt anſwer, then it behoveth the tenant to anſwer further, and to ſhew that he had right, and hath, in the aforeſaid lands, according to the form of the writ that the tenant before purchaſed againſt the huſband. And if he can ſhew that the huſband of ſuch wife had no right in the lands, nor any other but he that holdeth them, the tenant ſhall go quit, and the wife ſhall recover nothing of her dower; which thing, if he cannot ſhew, the wife ſhall recover her dower. (*c*)

VII. And where ſometime it chanceth that a woman not having a right to demand dower, the heir being within age, doth purchaſe a writ of dower againſt a guardian, and the guardian endoweth the woman by favor, or maketh default, or by colluſion defendeth the plea ſo faintly, whereby the woman is awarded her dower in prejudice of the heir, it is provided that the heir when he cometh to full age, ſhall have an action to demand the ſeizin of his anceſtor againſt ſuch a woman, like as he ſhould have againſt any other deforcer; yet ſo that the woman ſhall have her exception ſaved againſt the demandant, to ſhew that ſhe had right to her dower; which if ſhe can ſhew, ſhe ſhall go quit, and retain her dower; and if not, the heir ſhall recover his demand. (*d*)

VIII. In like manner the woman ſhall be aided, if the heir or any other do implead her for her dower, if ſhe loſe her dower by default, in which caſe the default ſhall not be ſo prejudicial to her, but that ſhe ſhall recover her dower, if ſhe have right thereto; and ſhe ſhall have this writ:

"Command A, that juſtly, &c. he render to B, who was the wife of F, ſo much land, "with the appurtenances in C, which ſhe claims to be her reaſonable dower, (or of her "reaſonable dower) and that the aforeſaid A, deforceth her, &c."

And to this writ the tenant ſhall have his exception, to ſhew that ſhe had no right to be endowed, which if he can verify, he ſhall go quit, if not, the woman ſhall recover the land whereof ſhe was endowed before. (*d*)

IX. Alſo widows may bequeath the crop of their ground, as well of their dowers, as of other their lands and tenements. (*d*)

X. But if a wife willingly leave her huſband, and go away and continue with her adulterer, ſhe ſhall be barred forever of action to demand her dower, that ſhe ought to have of her huſband's lands, if ſhe be convict thereupon, except that her huſband willingly and without coercion, reconcile her, and ſuffer her to dwell with him; in which caſe ſhe ſhall be reſtored to her action. (*e*)

(*a*) 1785. c. 65. § 1. (*b*) 1785. c. 65. § 2. (*c*) 1785. c. 65. § 3. (*d*) 1785. c. 65. § 4. (*e*) 1785. c. 65. § 5.

XI. Alſo, if any eſtate be conveyed by deed or will, either expreſsly or by averment, for the jointure of the wife, in lieu of her dower, to take effect in her own poſſeſſion, immediately on the death of her huſband, and to continue during her life at the leaſt, determinable by ſuch acts only as would forfeit her dower at the common law, ſuch conveyance ſhall bar her dower of the reſidue of the lands, tenements, or hereditaments, which at any time were her ſaid huſband's. But if the ſaid conveyance were before the marriage, and during the infancy of the feme, or if it were made after marriage, in either caſe, the widow may, at her election, wave ſuch jointure, and demand her dower. *(a)*

XII. When any conveyance intended to be in lieu of dower, ſhall, through any defect, fail to be a legal bar thereto, and the widow availing herſelf of ſuch defect, ſhall demand her dower, the eſtate and intereſt conveyed to ſuch widow, with intention to bar her dower, ſhall thereupon ceaſe and determine. *(b)*

XIII. If a widow be lawfully expulſed or evicted from her jointure, or any part thereof, without any fraud or covin, by lawful entry or action, ſhe ſhall be endowed of as much of the reſidue of her huſband's lands, tenements, or hereditaments, whereof ſhe was before dowable, as the ſame lands, tenements, or hereditaments, ſo evicted and expulſed, ſhall amount and extend unto. *(c)*

XIV. All and every other act and acts, clauſe and clauſes heretofore made, for or concerning any matter or thing within the purview of this act, ſhall be, and the ſame are hereby repealed: *Provided*, Nothing in this act contained, ſhall be conſtrued to affect any right which may have accrued, or been veſted, prior to the commencement of this act.

DRUNKENNESS. *See Suppreſſion of Vice, Drunkenneſs, Diſturbers of Religious Worſhip, and Sabbath Breakers.*

ELECTIONS.

December the 20th, 1785—but commenced Jan. 1, 1787.

§ I. THE delegates for the ſeveral counties, and the city of Williamſburg and borough of Norfolk, and the ſix ſenators for one of the four claſſes of diſtricts, in the room of thoſe who will annually be diſplaced, ſhall be choſen in the manner hereafter directed, in the month of April, in every year, on the court days of each reſpective county or corporation, and ſhall meet together, and with the remaining ſenators, on the third Monday of October, then next following, in general aſſembly, at the place the laſt preceding general aſſembly ſhall have ſat in, or adjourned to, unleſs ſuch place be in poſſeſſion of a public enemy, or infected with the plague or ſmall-pox, in which caſe they ſhall meet at ſuch other place as the governor, with the advice of the council, ſhall appoint and notify by proclamation. *(d)*

II. Every male citizen (other than free negroes or mulattoes) of this commonwealth, aged twenty-one years, or ſuch as have refuſed to give aſſurance of fidelity to the commonwealth, being poſſeſſed, or whoſe tenant for years, at will, or at ſufferance, is poſſeſſed of twenty-five acres of land, with a houſe, the ſuperficial content of the foundation whereof is twelve feet ſquare, or equal to that quantity, and a plantation thereon, or fifty acres of unimproved land, or a lot, or part of a lot of land in a city or town, eſtabliſhed by act of general aſſembly, with a houſe thereon, of the like ſuperficial content or quantity, having in ſuch land an eſtate of freehold at the leaſt, and, unleſs the title ſhall have come to him

(a) 1785. c. 65. § 6. *(b)* 1785. c. 65. § 7. *(c)* 1785. c. 65. § 8. *(d)* 1785. c 55—& 1788. c. 63.

by deſcent, deviſe, marriage, or marriage-ſettlement, having been ſo poſſeſſed ſix months, and no other perſon ſhall be qualified to vote for delegates to ſerve in general aſſembly, for the county, city, or borough, reſpectively, in which the land lieth. If the fifty acres of land, being one entire parcel, lie in ſeveral counties, the holder ſhall vote in that county wherein the greater part of the land lieth, only; and if the twenty-five acres of land, being one entire parcel, be in ſeveral counties, the holder ſhall vote in that county wherein the houſe ſtandeth, only. In right of land holden by parceners, joint-tenants, or tenants in common, but one vote ſhall be given by all the holders capable of voting, who ſhall be preſent, and agree to vote for the ſame candidate or candidates, unleſs the quantity of land, in caſe partition had been made thereof, be ſufficient to entitle every holder preſent to vote ſeparately, or unleſs ſome one or more of the holders may lawfully vote in right of another eſtate or eſtates in the ſame county, in which caſe the others may vote, if holding ſolely, they might have voted. *(a)*

III. Every perſon having ſuch a freehold in the city of Williamſburg or borough of Norfolk, as will qualify him to vote for delegates to repreſent the county, and alſo every free-man, except as before excepted, aged twenty-one years, being a citizen of the commonwealth, and not having refuſed to give aſſurance of fidelity, who ſhall be a houſekeeper, and ſhall have reſided ſix months in the ſaid city or borough, and ſhall be poſſed of a viſible eſtate of the value of fifty pounds at leaſt, or ſhall actually have ſerved as an apprentice to ſome trade within the ſaid city or borough for the term of five years, and ſhall have obtained a certificate of ſuch ſervice from the court of huſtings, under the common ſeal of the city or borough, and no other, ſhall be qualified to vote for a delegate to repreſent the ſaid city or borough, reſpectively, in general aſſembly.

IV. Every perſon qualified as aforeſaid to vote for delegates, ſhall be capable of being elected a delegate for the county, city, or borough, or ſenator for the diſtrict in which he reſides. *(b)*

V. No perſon who ſhall have ſerved as a member of the legiſlature for ſeven years in the whole, ſhall be afterwards compellable to ſerve therein. *(c)*

VI. Any elector qualified according to this act, failing to attend any annual election of delegates or of a ſenator, and, if a poll be taken, to give, or offer to give his vote, ſhall pay one fourth of his portion of all ſuch levies and taxes as ſhall be aſſeſſed and levied in his county the enſuing year: And for diſcovering ſuch defaulters, the ſheriff or other officer taking the poll, ſhall, within ten days after the ſaid election, deliver to the clerk of the county, or corporation court, as the caſe may be, a copy of the poll by him taken, to be kept in his office, who ſhall ſuffer any candidate or elector to take a copy thereof; and the ſaid clerk is hereby directed to cauſe a copy of the ſame to be delivered to the next grand jury, to be ſworn for the county or corporation, who ſhall be charged by the preſiding magiſtrate, to make preſentment of all ſuch perſons qualified to vote, reſiding in the ſaid county or corporation, who ſhall have failed to have given their votes at the ſaid election agreeable to law. And for the better information of the ſaid jury, the ſheriff of the county is hereby commanded, under the penalty of fifty pounds, to be recovered and appropriated as the penalties of other neglects of his duty, to lay before them a liſt of all the landholders reſident therein.

VII. Every elector going to, abiding at, and returning from an election, ſhall be privileged from arreſts one day for every twenty miles he ſhall neceſſarily travel, excluſive of the day of election; and any proceſs againſt ſuch elector, executed during ſuch privilege, ſhall be void.

VIII. Upon the election of a ſenator, and alſo of a delegate, or delegates, which the election of ſuch delegate or delegates, cannot be determined by view, the ſheriff, or in his abſence, the under ſheriff of the county, or the mayor of the city or borough, ſhall in-

(a) 1785. c. 55. *(b)* 1786. c. 10. § 3. *(c)* 1788. c. 52. § 6—1785. c. 55.

preſence of the candidates, or their agents, cauſe the poll to be taken in the court-houſe, or if that be in a town infected with any contageous diſeaſe, or be in danger of an attack from a public enemy, at ſome other place according to theſe directions: He ſhall appoint ſuch, and ſo many writers as he ſhall think fit, who ſhall reſpectively take an oath, to be adminiſtered by him, or make ſolemn affirmation that they will take the poll faithfully and impartially: He ſhall deliver a poll-book to each writer, who by ruling lines thereon, having made as many columns as there ſhall be candidates, ſhall enter the name of each candidate in a diſtinct column at the head thereof, and under his name in the ſame column, the name of every elector, who ſhall vote for that candidate; and after the names of all the electors who will give their votes (proclamation having been made three times at the door of the court-houſe, or other place of holding ſuch election, by the officer requiring thoſe who had not been polled, to come in and give their votes) ſhall have been thus entered, he ſhall conclude the poll, and declare the candidates for whom the greateſt number of votes ſhall appear to have been given to be elected; or if the greateſt number of votes for ſeveral candidates ſhall be equal with one another, he may declare which of the candidates he will elect. If the number of votes for ſeveral perſons to be a ſenator be equal, and the votes of the returning officers be equal alſo, it ſhall be decided by a lot taken by the ſaid returning officers at their meeting, which ſhall be within twenty days after the laſt day of election, at ſuch place as ſhall be appointed by the returning officer of the firſt county in which ſuch election ſhall be, who is hereby commanded forthwith to give notice to the returning officers. No elector ſhall be admitted to poll a ſecond time, at one and the ſame election, although at the firſt time he ſhall have given but a ſingle vote. If the electors who appear be ſo numerous that they cannot all be polled before ſun-ſetting; or if by rain or riſe of water-courſes, many of the electors may have been hindered from attending, the ſheriff, or under ſheriff, may by requeſt of any one, or more of the candidates, or their agents, adjourn the proceeding on the poll until the next day, and ſo from day to day for four days, (Sundays excluded) if the ſame cauſe continue, giving public notice thereof by proclamation at the door of the court-houſe, or other place of holding ſuch elections, and ſhall on the laſt day of the election conclude the poll according to the directions aforeſaid. *(a)*

IX. On complaint to either houſe of aſſembly of an undue election, or return of any member to their houſe, ſuch houſe ſhall forthwith appoint ſome day for trying the ſame, as ſhortly as ſhall be conſiſtent with fair enquiry, but not within leſs than fourteen days after ſuch complaint lodged, whereof notice ſhall be given by the ſpeaker to the party againſt whom the complaint is, if he be abſent; which day of trial may be lengthened from time to time, on good cauſe ſhewn to the houſe, and notice to the abſent party. On the day appointed for the trial, the committee of privileges and elections ſhall proceed on the ſaid diſputed election, and report to the houſe of which they are members, their opinion thereon, before they proceed to any other buſineſs, and the ſaid houſe ſhall, on receipt of the ſaid report, immediately proceed to determine thereon, and either confirm or diſagree to ſuch report, as to them ſhall ſeem juſt. If any perſon ſworn before the ſaid committee, ſhall give, or withhold, any evidence under ſuch circumſtances as would have conſtituted the ſame to be perjury, if done in preſence of a court of record, the ſame ſhall be deemed perjury. If upon any ſuch trial it ſhall appear that equal numbers of qualified electors ſhall have voted for the petitioner and the ſetting member, and the officer who conducted the election ſhall ſwear or ſolemnly affirm that if ſuch equality had appeared at the election, he would have declared the petitioner elected, ſuch petitioner ſhall be deemed duly elected; and his name inſtead of the name of the ſitting member, which ſhall be eraſed, ſhall be inſerted in the certificate or return.

X. No elector ſhall be polled before he ſhall have declared, if required to do ſo by any candidate, or his agent, in what right he offers to vote, and ſhall have taken an oath, which

(a) 1788. c. 52. § 6.

the officer conducting the election ſhall adminiſter, or make a ſolemn affirmation in this form: " I do ſwear (or do ſolemnly affirm) that I do in my conſcience believe myſelf to " be duly qualified to vote for delegates to ſerve in general aſſembly for the county of " , according to the act of general aſſembly, intituled, " An act " ," of which oath or affirmation, a note ſhall be made in the poll-book, oppoſite, and referring to the name of the perſon ſwearing or affirming. The making ſuch oath or affirmation falſely, ſhall be perjury. *(a)*

XI. The names of electors offering to be polled, but refuſing to make ſuch oath or affirmation, ſhall be entered on the poll-books in ſeparate liſts, with the names of the candidates for whom they voted, and ſhall be added to the poll, if, upon a ſcrutiny the votes be juſtified *(b)*

XII. The ſheriff or under ſheriff ſhall certify the election of delegates in this form, or to this effect: " Be it known to all whom theſe preſents ſhall come, that I , " ſheriff (or , deputy of , ſheriff) of the coun- " ty of in my full county, held at the court-houſe thereof (or at ") on the day of , in the year of our Lord, " , by the electors of my ſaid county, qualified according to law, cauſed to " be choſen two delegates for my ſaid county, namely, and " to repreſent the ſame in general aſſembly. Given under my hand and ſeal, the day and " year aforeſaid." *(c)*

XIII. The mayor of a city or borough entitled to particular repreſentation, ſhall certify the election of a delegate in this form, or to this effect: " Be it known to all to whom " theſe preſents ſhall come, that I , moyer of the city (or borough) of " , at the court-houſe of (or at) in the ſaid city, (or borough) on " the day of , in the year of our Lord, , " by the electors of the ſaid city, (or borough) qualified according to law, cauſed to be " choſen a delegate for the ſaid city, (or borough) namely, to re- " preſent the ſame in general aſſembly. Given under my hand and ſeal, the day and year " aforeſaid." *(d)*

XIV. The ſheriffs, or under ſheriffs, of the ſeveral counties of a diſtrict, ſhall certify the election of a ſenator in this form, or to this effect: " Be it known to all whom theſe " preſents ſhall come, that we , ſheriff, (or , deputy of , " ſheriff) of the county , , ſheriff (or , deputy of " , ſheriff) of the county of , and , ſheriff (or " deputy of , ſheriff) of the county of , in our full counties held at the " courthoſes thereof (or at) reſpectively, on the day of , in the year of " our Lord , by the electors of our ſaid reſpective counties, qualified according " to law, cauſed to be choſen a ſenator for the diſtrict compoſed of the ſaid counties, namely, " , to repreſent the ſame in general aſſembly. Given under our hands " and ſeals the day and year aforeſaid." *(e)*

XV. The officers directed to make ſuch certificates of elections as aforeſaid, ſhall cauſe them to be delivered, thoſe of delegates, to the clerk of the houſe of delegates, and thoſe of ſenators, to the clerk of the ſenate, one day, at leaſt, before the ſucceeding ſeſſion of general aſſembly.

XVI. For election of delegate or ſenator, when a vacancy ſhall happen, a writ or writs ſhall be iſſued by the ſpeaker of that houſe whereof he was a member, but if the vacancy be occaſioned by acceptance of an office, the writ or writs ſhall not be iſſued, without the ſpecial order of the houſe; and the officer to whom ſuch writ ſhall be directed, ſo ſoon after the receipt thereof as he may be able, ſhall give the electors notice thereof as well as of the time and place of election, by advertiſement to be affixed at four of the moſt convenient

(a) 1788 c 52 § 4 *(b)* 1788 c 52 § 1 *(c)* 1788 c 52 § 3 *(d)* 1788 c 42 § 2 *(e)* 1785 c 55

places in the county, and ſhall cauſe the election to be made in the manner herein before preſcribed, and ſhall have the ſame power of adjourning the proceeding upon the poll, as in caſe of a general election. The return of ſuch writ for electing a delegate or delegates, ſhall be in this form, or to this effect: Upon the writ ſhall be endorſed theſe, or the like words, "The execution of this writ appears in a ſchedule hereunto annexed; and on another paper annexed to the writ ſhall be written, if the writ be for the election of a delegate for a county, theſe or the like words, "By virtue of this writ to me directed, in my full "county held at the court-houſe thereof (or at) on the day of , "in the year of our Lord, , by the electors of my ſaid county, qualified "according to law, I cauſed to be choſen a delegate (or two delegates) for my ſaid county, "namely, , to repreſent the ſame in general aſſembly. Gi-"ven under my hand and ſeal, the day and year aforeſaid;" and if the writ be for the election of a delegate for a city or borough, theſe, or the like words, "By virtue of this "writ to me directed, at the court-houſe of the city of (or borough of " , or at , in the borough of) on the day "of , in the year of our Lord, , by the electors of the "ſaid city (or borough) qualified according to law, I cauſed to be choſen a delegate for the "ſaid city (or borough) namely, , to repreſent the ſame in general aſ-"ſembly. Given under my hand and ſeal, the day and year aforeſaid;" and the return of the writs for electing a ſenator ſhall be in this form, or to this effect: Upon each writ ſhall be endorſed theſe, or the like words, "The execution of this writ appears in a ſche-"dule hereunto annexed;" and on another paper connecting the ſeveral writs together, ſhall be written theſe, or the like words, "By virtue of theſe writs to us directed, in our "full counties, held at the court houſes thereof reſpectively (or at) on the " day of , in the year of our Lord, , by the elec-"tors of our ſaid reſpective counties, qualified according to law, we cauſed to be choſen "a ſenator for the diſtrict compoſed of our ſaid counties, namely, , to "repreſent the ſame in general aſſembly. Given under our hands and ſeals, the day and "year aforeſaid." And the officers conducting the elections, ſhall make their ſaid returns to the general aſſembly, if it be ſitting, immediately, or if it be not ſitting, one day at leaſt before the time to which the writ ſhall be returnable.

XVII. A ſheriff, under ſheriff, or mayor, refuſing to take the poll when he ſhall be required by a candidate, or elector, or taking it in other manner than is herein before preſcribed, or making a falſe certificate or return of the election of a member or members to ſerve in the general aſſembly, or neglecting to cauſe the certificate or return of ſuch election to be made to ſuch clerk, and at or before ſuch time as is herein before directed, ſhall forfeit and pay one hundred pounds; and neglecting to deliver the poll-books to the clerk of the court, to whom, and before the expiration of the time within which they are herein before directed to be delivered, or refuſing to ſuffer any candidate or elector, at his own expence, to take a copy of the poll-books, ſhall forfeit and pay fifty pounds; which penalties may be recovered with coſts in actions of debt, by any perſon who will ſue for the ſame, one half to his own uſe, and the other half to the uſe of the commonwealth

XVIII. Any perſon hereafter to be elected to ſerve in the general aſſembly, who ſhall directly or indirectly give or agree to give any elector or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected, for ſuch, or any other county, city, or borough, ſhall be expelled and diſabled to be re-elected during the term of three years.

XIX. The privilege of members of the general aſſembly ſhall continue during every ſeſſion, and one day before and after for every twenty miles they muſt neceſſarily travel to, and from home, and in the mean time proceſs in which they are parties ſhall be ſuſpended, without abatement or diſcontinuance; if any perſon taken in execution, be delivered by

privilege of either houſe of general aſſembly, ſo ſoon as ſuch privilege ceaſeth, he ſhall return himſelf a priſoner in execution, or be liable to an eſcape.

XX. If a ſufficient number of the members of general aſſembly, or of either houſe thereof, to adjourn from day to day, ſhall not meet at any time when they ought, the governor by proclamation, with advice of the council, may prorogue the general aſſembly, or adjourn the deficient houſe, from day to day, until a ſufficient number ſhall convene, and their acts and proceedings afterwards ſhall be as valid as if there had been no ſuch interruption. But a delegate or ſenator ſhall loſe all the wages he would otherwiſe have been entitled to, if he ſhall depart from the general aſſembly before it be adjourned, without licenſe from the ſpeaker and other members of the houſe whereof he is a member, firſt entered on the journal; yet any member of either houſe taken ſo ſick during his attendance in general aſſembly, or in his journey thither, as that he ſhall be unable to come to or ſit in the houſe, ſhall receive wages for every day of the ſeſſion he ſhall be ſo diſabled, in the ſame manner as if he had ſat in the houſe. If on the day appointed for the meeting of any general aſſembly, or at any time during the ſeſſion, a ſufficient number of the members thereof, to proceed to buſineſs, do not attend for that purpoſe, every abſent delegate or ſenator, ſhall, beſides loſing his wages during abſence, forfeit and pay to the uſe of this commonwealth ten pounds; ſuch forfeiture to be recovered by proſecution to be inſtituted in the general court by order of ſuch houſe, and on the trial of ſuch proſecution, no excuſe for non-attendance, other than thoſe before-mentioned, ſhall be admitted by the jury; and if it be alledged that the defendant did attend ſuch houſe, on any of the days during which they could not do buſineſs for want of members, the proof of ſuch attendance ſhall reſt on him.

XXI. The general aſſembly may during a ſeſſion, or at the end thereof, adjourn to any other place than that where they ſhall then be ſitting.

XXII. Every act of the general aſſembly hereafter to be made, ſhall commence and be in force from the paſſing thereof, unleſs in the act itſelf another day for the commencement thereof be particularly mentioned, and in the former caſe the day of paſſing thereof ſhall be noted next after the title.

December the 25th, 1788.

§. I. WHEREAS the mode of conteſting diſputed elections hath heretofore been found to be attended with great inconvenience and delay: *Be it enacted*, That any perſon intending to conteſt the election of any perſon returned to ſerve as a ſenator or delegate, from any county, ſhall, within twenty days after the aſſembling of the ſheriffs to make a return in the former caſe, or within ten days after the day of election in the latter, give to the perſon returned to ſerve, notice thereof in writing, and moreover ſhall deliver to him at the ſame time, a liſt of thoſe perſons to whoſe votes he hath objection, diſtinguiſhing his ſeveral objections againſt the names of the voters; and where he hath any other objection to the legality of the election, or the eligibility of the perſon returned, as aforeſaid, he ſhall, in like manner, give notice thereof, diſtinguiſhing his particular objections; and the perſon returned as aforeſaid, ſhall, within twenty days after receiving ſuch notice, deliver the like liſts on his part.

II. Where the conteſt is for the office of a ſenator, any one or more of the courts in the ſenatorial diſtrict, or where it is for the office of a delegate, the court of the county, ſhall, upon the application of either party, appoint five commiſſioners to take the depoſitions of ſuch witneſſes as ſhall be produced to them; any three of which ſaid commiſſioners ſhall be ſufficient for the purpoſe. But no commiſſioner ſhall act without having firſt taken, before ſome juſtice, an oath to act impartially. Reaſonable notice, in writing, of the time and place of taking ſuch depoſitions, ſhall be given by either party to the other.

III. Notice in any of the caſes beforementioned, as well as the liſts, left with his wife, or any other free perſon over the age of twenty-one years, belonging to his family, other

than a negro or mulatto, or in caſe of their abſence, then at the dwelling-houſe, ſhall be deemed ſufficient. The depoſitions ſhall be certified by the commiſſioners taking the ſame, ſealed up and ſent by them to the clerk of that houſe of which the perſon was returned a member, without delay.

IV. Complaint ſhall be lodged againſt a member within ten days after the meeting of the aſſembly, where the conteſted election ſhall have been holden at the ſtated annual period, or within twenty days after the election, where ſuch election ſhall have been holden in conſequence of an intermediate vacancy; and the depoſitions taken as aforeſaid, ſhall be, by the clerk of each houſe, reſpectively, delivered to the ſpeaker thereof, to be committed with the petition of the party complaining, and ſhall be received and read as evidence upon the hearing thereof; ſubject, however, to the exceptions of the oppoſite party.

V. Subpœnas for witneſſes ſhall be iſſued by the clerks of the county courts upon the application of either party. And the witneſſes ſhall be entitled to the ſame allowance, be privileged from arreſts, and be ſubject to the like penalties, as witneſſes attending the county courts.

VI. If any perſon ſhall vote a ſecond time at any election for members of the general aſſembly, he ſhall forfeit and pay ten pounds, to be recovered, with coſts of ſuit, in any court of record, by action of debt, bill, plaint, or information, to the uſe of the perſon who will ſue for the ſame.

VII. The ſheriff conducting the election in any county in the diſtrict of Kentucky, ſhall, at the requeſt of any one or more of the candidates, adjourn the election until the next day, alth ugh the electors who appear be not too numerous to be polled before ſun-ſetting, or there be no rain, or riſe of water courſes.

VIII. The ſeveral county courts ſhall be empowered, for good cauſe to them ſhewn, to remit any penalty incurred by a freeholder, for not having given his vote at any election for a delegate or ſenator, according to law.

EMBRACERY. *See Perjury and Embracery.*

ENGLISH STATUTES. *See Britiſh Statutes.*

ENTRY. *See Right of Entry.*

ENTRIES. *See Land-Office and Surveyors.*

ESCAPES.

November the 24th, 1792.

§ I. FOR the more effectual retaking and ſecuring perſons who eſcape out of priſon, *Be it enacted*, That if any perſon committed, rendered or charged in cuſtody, in execution, or upon meſne proceſs, to any county or corporation priſon, or to the jail of any diſtrict, ſhall thence eſcape, it ſhall and may be lawful for any juſtice of the peace in the county or corporation where ſuch priſoner was in cuſtody, upon oath of ſuch eſcape

before him made by the ſheriff, under ſheriff, ſerjeant, jailor, or other credible perſon, to grant unto any one demanding the ſame, one or more warrants under his hand and ſeal, directed to all ſheriffs, mayors, ſerjeants, bailiffs, and conſtables, within this commonwealth, reciting the cauſe of ſuch perſon's commitment, and time of his or her eſcape, and commanding them, and every of them in their reſpective counties, cities, towns, and precincts, to ſeize and retake ſuch priſoner ſo eſcaped or going at large, and being ſo retaken, forthwith to convey and commit to the priſon where debtors are uſually kept in the county or corporation where ſuch retaking ſhall be, there to be kept in ſafe cuſtody, until he or ſhe be thence diſcharged by due courſe of law; which warrant the ſheriff or other officer is hereby required to obey, and to receive the priſoner into his ſafe cuſtody, and to give a note to the perſon or perſons delivering him or her, teſtifying his receipt of ſuch priſoner, and ſhall alſo make return of the execution of ſuch warrant to the court of that county, corporation, or diſtrict from whence the priſoner eſcaped; and if he or ſhe was there in cuſtody, charged in execution, then the ſheriff or other officer ſhall ſafely keep him or her, without bail or mainprize, until he or ſhe ſhall make full payment and ſatisfaction to the plaintiff or plaintiffs, creditor or creditors, in whoſe name ſuch execution was ſued out, or until the judgment or judgments obtained againſt him or her ſhall be reverſed or diſcharged by due courſe of law. And if ſuch priſoner ſhall have been in cuſtody upon meſne proceſs, in any action of debt, or upon the caſe, the ſheriff or other officer to whom he or ſhe ſhall be ſo recommitted, ſhall, in like manner, keep ſuch priſoner in his ſafe cuſtody, and make return of the execution of the warrant by which he or ſhe was retaken, to the court of that county, corporation, or diſtrict wherein he or ſhe was firſt arreſted, and thereupon it ſhall be lawful for the ſaid court, upon the plaintiff's or creditor's filing his declaration, to proceed and give judgment thereon according as the truth of the caſe ſhall appear to them, in the ſame manner as if the defendant had appeared in the ſaid court and refuſed to plead, unleſs ſuch defendant ſhall cauſe ſpecial bail to be entered in the ſaid court, and ſhall immediately plead to iſſue, and then upon certificate under the hand of the clerk of the ſaid court, that ſuch bail is given, delivered to the ſheriff or other officer in whoſe cuſtody ſuch defendant then ſhall be, it ſhall be lawful for the ſaid ſheriff or other officer to ſet at large ſuch priſoner, and not otherwiſe; but where any priſoner eſcaped and retaken upon ſuch warrant as aforeſaid, ſhall thereafter be charged with treaſon, felony, or other crime or cauſe in behalf of the commonwealth, for which he or ſhe ought to be tried in the diſtrict court, and ſhall be for ſuch cauſe removed to the jail of the diſtrict court, every ſuch priſoner ſhall be charged in the ſaid diſtrict jail, with all the cauſes wherewith he or ſhe ſtood charged in the priſon from whence he or ſhe was removed, until he or ſhe be thence delivered by due courſe of law, in like manner as is herein before directed. *(a)*

II. When any perſon in execution, who ſhall have obtained the liberty of the priſon rules, by giving bond and ſecurity for the ſame, ſhall hereafter eſcape and go out of the ſame, the ſheriff or other officer of the county or corporation where ſuch priſoner was in cuſtody, ſhall, and he is hereby required immediately to apply to a juſtice of the peace for an eſcape warrant, to retake ſuch priſoner according to the directions of this act, and ſuch ſheriff or other officer ſhall, and he is hereby required immediately to give notice thereof to the creditor at whoſe ſuit he was in cuſtody, or to his attorney or agent, and ſhall aſſign over and deliver to ſuch creditor, or his attorney, the bond by him taken for the liberty of the priſon rules, who ſhall be obliged to receive the ſame; and thereupon it ſhall and may be lawful for ſuch creditor, or his attorney, to purſue the method directed by this act for retaking ſuch debtor upon the eſcape warrant aforeſaid; and if he be retaken thereupon, and committed to jail, the ſecurities for his keeping the priſon rules, ſhall be diſcharged from their bond, or ſuch creditor, or his attorney, ſhall or may, at their

(a) 22 Geo. II c 6 § 13

election, commence and proſecute an action or ſuit at law againſt the ſecurity or ſecurities named in ſuch bond, for the recovery of his debt, notwithſtanding he ſhall have applied for and obtained an eſcape warrant againſt his debtor, as aforeſaid, if ſuch debtor is not retaken and committed to jail thereupon; and the ſheriff or other officer ſhall not be liable or anſwerable for the payment of the debt for which ſuch priſoner was in cuſtody, unleſs the ſecurity or ſecurities named in the bond by him taken of ſuch priſoner for the liberty of the priſon rules, ſhall afterwards be found to have been inſufficient for the payment of ſuch debt at the time the ſame was taken. *(a)*

III. And whereas the ſituation of moſt priſons in this commonwealth, hath given opportunities to evil diſpoſed perſons to break open the ſame, and turn out debtors and others in cuſtody, to the hindrance of juſtice, prejudice of creditors, and ruin of ſheriffs, who have been compelled to pay the debts with which ſuch priſoners ſtood charged: For remedy thereof, *Be it enacted*, That no judgment ſhall be entered againſt any ſheriff or other officer, in any ſuit brought upon the eſcape of any debtor in his or their cuſtody, unleſs the jury who ſhall try the iſſue, ſhall expreſsly find that ſuch debtor or priſoner did eſcape with the conſent or through the negligence of ſuch ſheriff (or ſerjeant) or his officer or officers or that ſuch priſoner might have been retaken, and that the ſheriff (or ſerjeant) and his officers neglected to make immediate purſuit. *Provided always*, That where any ſheriff or other officer ſhall have taken the body of any debtor in execution, and ſhall wilfully and negligently ſuffer ſuch debtor to eſcape, the perſon ſuing out ſuch execution, his executors or adminiſtrators, ſhall and may have and maintain an action of debt againſt ſuch ſheriff or other officer, his executors or adminiſtrators, for the recovery of all ſuch ſums of money and tobacco, as are mentioned in the ſaid execution, and damages for detaining the ſame; any law, cuſtom, or uſage, to the contrary, notwithſtanding. If any private perſon have any priſoner in his keeping, arreſted for ſuſpicion of felony, treaſon, or murder, and the perſon that is ſo arreſted eſcape by negligent keeping, before that he be brought to the jail, then the perſon from whom ſuch priſoner ſo eſcaped, ſhall be liable to a fine on being found guilty on an indictment in the court of that diſtrict in which ſuch eſcape was made. *(b)*

The repealing clauſe is as in the appendix No. 15.

ESCHEATORS.

November the 30th, 1792.

§. I. THERE ſhall be one eſcheator commiſſioned in every county by the governor, on recommendation from the court of the ſame county, who ſhall execute his office in proper perſon and not by deputy, and ſhall before the court of the county be bound in the penalty of three thouſand dollars, with ſecurity to be approved by the ſame court, duly to perform the duties of his ſaid office. *(c)*

II. The ſaid eſcheator ſhall ſit in convenient and open places, and ſhall taken his inqueſts of fit perſons who ſhall be returned and impannelled by the ſheriff of the county, and ſhall ſuffer every perſon to give evidence openly, in their preſence, to ſuch inqeſts, and the ſaid inquiſition ſo taken, ſhall be by indentures to be made between the ſaid eſcheator and them of the inqueſt, whereof the counter-part, ſealed by the eſcheator, ſhall remain in the poſſeſſion of the firſt perſon that ſhall be ſworn in the ſaid jury, and by him ſhall be returned to the court of the ſame county, there to be recorded; and the other part, ſealed by the jurors, ſhall, by the eſcheator, be ſent into the court of the diſtrict in which the land lieth, within one month after the inqueſt taken. *(d)*

( ) 5 Geo. III c 6 § 1 *(b)* 22 Geo. II c 6 § 12—27 Geo. II c 1 § 37—1789 c 30 § 15 *(c)* 1785 c 63 § 1
(a) 1785 c 63 § 2

III. And if it be found for the commonwealth, and there ſhall be any man that will make claim to the lands, he ſhall be heard without delay, on a traverſe to the office, monſtrans de droit, or petition of right; and the ſaid lands or tenements ſhall be committed to him if he ſhew good evidence of his right and title to hold, until the right ſhall be found and diſcuſſed for the commonwealth, or for the party, finding ſufficient ſecurity to proſecute his ſuit with effect, and to render and pay to the commonwealth the yearly value of the lands, if the right be diſcuſſed for the commonwealth. *(a)*

IV. No lands nor tenements ſeized into the hands of this commonwealth, upon ſuch inqueſt taken before eſcheators, ſhall be in any wiſe granted, nor to farm let to any if it be not to him or them which claim as is aforeſaid, till the ſame inqueſts and verdicts be fully returned into the diſtrict court, nor within ſix months after the ſame return, but ſhall entirely and continually remain in the hands of the eſcheators, who ſhall anſwer to the commonwealth the iſſues and profits yearly coming of the ſaid lands and tenements, without doing waſte or deſtruction. *(b)*

V. If no perſon within the ſix months before mentioned, make claim to the lands or tenements ſo ſeized, or claim being ſo made, if it be found and diſcuſſed for the commonwealth, the clerk of the diſtrict court ſhall, within one month thereafter, certify to the eſcheator of the county, where the lands lie, that no claim hath been made, or that being made it hath been diſcuſſed for the commonwealth; which eſcheator ſhall thereupon proceed to make ſale of the lands for the benefit of the commonwealth, to him who will give the moſt, after one month's public notice of the time and place of doing the ſame, and ſhall certify the purchaſer and price to the regiſter of the land-office, who, on receiving a certificate that ſuch price hath been paid into the treaſury, ſhall have a grant executed to the purchaſer, in ſuch manner as by law directed in the caſe of unappropriated lands. *(c)*

VI. Where any perſon holds lands or tenements for term of years, or hath any rent, common, office, fee, or other profit apprender of any eſtate of freehold, or for years, or otherwiſe, out of ſuch lands, or tenements, which ſhall not be found in ſuch office or inquiſition, ſuch perſon ſhall hold and enjoy his leaſe, intereſt, rent, common, office, fee, and profit apprender, in manner as if no ſuch office or inquiſition had been found, or as if ſuch leaſe, intereſt, rent, common, office, or profit apprender had been found in ſuch inquiſition. *(d)*

VII. Alſo, if one perſon or more be found heir by office or inquiſition in one county, and another perſon be found heir to the ſame perſon in another county; or if any perſon be untruly found lunatic, ideot, or dead, the perſon grieved by ſuch office or inquiſition, may have his traverſe or monſtrans de droit to the ſame, without being driven to any petition of right, and proceed to trial therein, and have like remedy and reſtitution upon his title, found or adjudged for him therein as in other caſes of traverſe upon untrue inquiſition found. *(e)*

The repealing clauſe is as in the appendix No. 12.

December the 26th, 1794.

§ I. WHEREAS a contrariety of opinion hath prevailed reſpecting the conſtruction of an act of the general aſſembly of this commonwealth, paſſed November thirtieth, one thouſand ſeven hundred and ninety-two, intituled, "An act concerning eſcheators;" and it is proper that the ſaid act ſhould be ſo explained and amended as to prevent any doubts in the expoſition thereof in future:

II. Each and every inqueſt hereafter to be taken under the ſaid, in part, recited act, ſhall conſiſt of ſixteen freeholders, who ſhall be returned and impannelled by the ſheriff of the county, to meet at the courthouſe of the ſaid county where the inqueſt is taken, who ſhall ſuf-

(a) 1785 c 63 § 2 *(b)* 1785 c 63 § 3 *(c)* 1785 c 63 § 4 *(d)* 1785 c 63 § 5 *(e)* 1785 c 63 § 6

fer every perſon to give evidence openly in the preſence of the ſaid jurors; and the ſaid inquiſition ſo taken, ſhall be by indentures to be made between the eſcheator and any twelve or more of the inqueſt, whereof the counter-part ſhall remain in the poſſeſſion of the firſt perſon that ſhall be ſworn in the ſaid jury, and by him ſhall be returned to the court of the ſame county, there to be recorded, and the other part, ſealed by the jurors agreeing in their verdict, ſhall, by the eſcheator, be ſent into the court of the diſtrict in which the land lieth, within one month after the inqueſt taken, and the ſame proceedings ſhall then in every caſe and manner be purſued as is directed in the ſaid act.

III. And where the eſcheator proceeds to a ſale of lands under the proviſions in the ſaid act, the ſame ſhall be ſold at public vendue, at the courthouſe of the county wherein the ſaid land lieth, either by the whole tract, or in ſuch mannner as in his opinion will encreaſe the value thereof.

IV. This act ſhall not be conſtrued to repeal any part or parts of the aforeſaid act, other than ſuch as are rendered nugatory by the expreſs directions of this act.

V. And whereas no allowance hath been provided by law for the ſervices required to be performed by the ſeveral eſcheators of this commonwealth, and ſome allowance being adjudged reaſonable, *Be it enacted*, That for each inqueſt taken by any eſcheator on behalf of this commonwealth, ſuch eſcheator ſhall be allowed the ſum of five dollars, to be paid out of the fund charged with the payment of the civil liſt; and that he ſhall alſo be allowed a commiſſion of five per cent. on all ſums by him received by virtue of his office, and which ſhall be paid into the public treaſury by him.

VI. And it is hereby declared to be the duty of the attorney proſecuting for the commonwealth, in any and every county therein, to proſecute ſuch inqueſt; and ſuch attorney for his trouble and expence, ſhall be allowed the ſum of five dollars for every inqueſt and office found he ſhall attend, to be paid by the auditor of public accounts out of the aggregate fund.

ESTRAYS.

December the 11th, 1785—but commenced Jan. 1, 1787.

§ I. IT ſhall be lawful for any perſon by himſelf or his agent, to take up any eſtray, on his own land, and having taken it, he, or his agent, ſhall forthwith give information thereof to ſome juſtice of the peace for the ſaid county, who ſhall thereupon iſſue his warrant to three diſintereſted freeholders of the neighbourhood, commanding them, having been firſt duly ſworn, to view and appraiſe ſuch eſtray, and certify the valuation under their hands, together with a particular deſcription of the kind, marks, brand, ſtature, colour, and age; which certificate ſhall, by the juſtice, be tranſmitted to the clerk of the county court within twenty days, and by ſuch clerk entered in a book to be kept for that purpoſe, for which he may demand and take ten pounds of tobacco to be paid down by the taker up.

II. The clerk ſhall moreover cauſe a copy of every ſuch certificate to be publicly affixed at the door of his courthouſe, on two ſeveral court days next after he receive the ſame, for which, and a certificate thereof, he ſhall receive the like fee as for entering the ſame in the book.

III. If the valuation ſhall be under twenty ſhillings, and no owner ſhall appear until notice ſhall have been twice publiſhed, as aforeſaid, the property ſhall then be veſted in the owner of the land on which ſuch eſtray was taken; and if the valuation ſhall exceed twenty ſhillings, ſuch owner ſhall, within three months after the appraiſement, ſend to the public printer a copy of the certificate, to be advertiſed three times in the Virginia gazette, with notice of the place where ſuch eſtray is, for which the printer may demand four ſhil-

lings for each eſtray; and if no owner appears to claim ſuch eſtray within a year and a day after the publication, the property ſhall, from thenceforth, be veſted in the owner of the lands whereon it was taken. But the former owner, in either caſe, may, at any time within five years afterwards, upon proving his property, demand and recover the valuation money, deducting therefrom the clerk's and printer's fees, and five ſhillings for every horſe or head of neat cattle, and one ſhilling for every other beaſt.

IV. If any perſon ſhall take up a boat or other veſſel adrift, he ſhall, in like manner, make application to a juſtice of one of the adjacent counties, for his warrant to have the ſame valued and deſcribed by her kind, burthen, and built, and ſhall proceed in all other reſpects, and have the ſame benefit as before directed in the caſe of eſtrays: *Provided always*, That if after notice publiſhed as aforeſaid, any eſtray ſhall happen to die, or by any caſualty get out of the poſſeſſion of the perſon who took the ſame up, without his or her default, ſuch taker up ſhall not be anſwerable for the ſame, or for the valuation thereof; nor ſhall any taker up be anſwerable for any boat or other veſſel loſt as aforeſaid.

EVIDENCE. *See Death Preſumed.*

EXAMINING COURTS. *See Criminals, Crimes, Offences and Proſecutions.*

EXCHANGE. *See Bills of Exchange and Aſſignees of Obligations.*

EXECUTIONS.

December the 10th, 1793.

§ I. ALL perſons who have, or ſhall hereafter recover any debt, damages, or coſts, by the judgment of any court of record within this commonwealth, may, at their election, proſecute writs of fieri facias, elegit, and capias ad ſatisfaciendum, within the year, for taking the goods, lands or body of the perſon or perſons againſt whom ſuch judgment is obtained, in manner following: All ſuch writs ſhall run in the name of the commonwealth, and bear teſte by the clerks of the ſaid courts reſpectively, ſhall be returnable to the firſt day of the next ſucceeding court, ſo that there be always at leaſt fifteen days between the teſte and return of each of the ſaid writs: *Provided*, That executions may be iſſued from the general court, returnable to the ſecond term of the ſaid court, following the day of iſſuing the ſame; and that executions ſhall iſſue to any ſheriff or coroner from the clerks of the diſtrict courts, and be returnable to the firſt day thereof. *And provided alſo*, That if the plaintiff in any county or other inferior court, ſhall deſire an execution to iſſue, returnable at a further day, the clerk ſhall iſſue the ſame accordingly, ſo as the day of ſuch return be upon a court day within ninety days next after the teſte thereof, and that the forms of the ſaid ſeveral writs ſhall be as follows, mutatis mutandis, to wit:

A FIERI FACIAS IN DEBT.

"The commonwealth of Virginia, to the ſheriff of county, greeting:
"We command you, that of the goods and chattels of A. B. late in your bailiwick, you
"cauſe to be made the ſum of , which C. D. lately in our court
"hath recovered againſt him for debt; alſo the ſum of , which to the ſaid
"C. D. in the ſame court, were adjudged for his damages, as well by reaſon of detaining

" the ſaid debt, as for his coſts in that ſuit expended, whereof he is convicted, as appears " to us of record, and that you have the ſaid before the judges or juſtices " (as the caſe may be) of our ſaid court, the day of , to render to " the ſaid C. D. of the debt and damages aforeſaid. And have then there this writ. Wit- " neſs, &c."

THE SAME IN CASE, UPON A PROMISE:

As before unto " for his damages, which he ſuſtained, as well by rea- " ſon of his not performing a certain promiſe and aſſumption to the ſaid C. D. by the ſaid " A. B. lately made, as for his coſts by him about his ſuit in this behalf expended, &c."

IN TRASPASS.

As before unto " for damages, as well by occaſion of a certain treſpaſs " by the ſaid A. B. to the ſaid C. D. offered as for his coſts, &c."

IF FOR THE DEFENDANT, SAY,

" For his coſts about his defence in a certain action at the ſuit of the ſaid, &c."

IN COVENANT.

As before unto " for damages, &c. by occaſion of a breach of a certain " covenant between the ſaid A. B. and C. D. lately made, &c." *(a)*

THE FORM OF A WRIT OF ELEGIT.

" The commonwealth, &c. greeting: Whereas A. B. at our court, &c. be- " fore our judges (or juſtices) held, hath recovered againſt C. D. the ſum of which " to the ſaid plaintiff was adjudged for a certain debt or damages, " as before" " ;" and the ſaid A. B. hath choſen to have delivered to him all the goods and " chattels of the ſaid C. D. ſaving only the oxen and beaſts of his plough, and alſo a moi- " ety of all his lands and tenements in your bailiwick, to have and to hold the goods and " chattels aforeſaid as his own proper goods, and the ſaid moiety as his freehold to him and " his aſſigns, until he ſhall have levied thereof the debt and damages aforeſaid: Therefore " we command you that you cauſe to be delivered, all the goods and chattels of the ſaid " C. D. ſaving the oxen and beaſts of his plough, and alſo a moiety of all his lands and tene- " ments in your bailiwick, whereof he at the day of obtaining the ſaid judgment was ſeiz- " ed, or at any time afterwards, by reaſonable price and extent, to have and to hold the " ſaid goods and chattels, to him the ſaid A. B. as his own proper goods and chattels, and " the ſaid moiety as his freehold, to him and his aſſigns, until he ſhall have levied thereof " the debt and damages aforeſaid, and that you certify our ſaid judges (or juſtices) under " your own ſeal, and the ſeals of thoſe by whoſe oath you ſhall make this extent and ap- " praiſement, how you execute this writ, the day of . And have then " there this writ, &c." *(b)*

A CAPIAS AD SATISFACIENDUM.

" The commonwealth, &c. greeting: We command you, that you take A. B. late of " , if he be found within your bailiwick, and him ſafely keep, ſo that you have " his body before our judges (or juſtices) of our court, &c. the day of " to ſatisfy C. D. the ſum of which the ſaid C. D. hath recovered againſt him " for debt, alſo, &c." as before.

IN CASE, TRESPASS, OR COVENANT, AS IN THE FIERI FACIAS.

Which ſaid writs ſo iſſued, ſhall be executed by the ſheriff or other officer to whom the ſame ſhall be directed, and ſhall be returned according to the reſpective forms hereafter mentioned, to wit:

THE RETURN OF A FIERI FACIAS.

" By virtue of this writ to me directed, I have cauſed to be made the within-mentioned " ſum of , of the goods and chattels of the within named A. B. which ſaid ſum

(a) 1748 c 8. *(b)* 13 Edw. I c 18

" of before the judges (or juſtices) within mentioned, at the day and place with-
" in contained, I have ready, as that writ requires."

OR,

" The within named A. B. hath no goods or chattels within my bailiwick, whereof
" can make the ſum within mentioned."

OR,

" By virtue, &c. I have cauſed to be made of the goods and chattels of the within nam-
" ed A. B. the ſum of , which I have ready to render to the within named C. D.
" in part of the debt and damages within mentioned: And I do further certify, that the
" ſaid A. B. hath no more goods and chattels within my bailiwick, whereof at preſent I
" can make the reſidue of the ſaid debt and damages, as by the ſaid writ is required."

RETURN OF A WRIT OF "ELEGIT."

" Inquiſition indented, taken at , in the county aforeſaid, the day
" of , in the year of or Lord , before me E. F. ſheriff in the county
" aforeſaid, by virtue of a writ to me directed, and to this inquiſition annexed, and by the
" oath of A. B. C. &c. good and lawful men of my bailiwick, who being charged and
" ſworn upon their oath do ſay; that A. B. in the ſaid writ to this inquiſition annexed,
" named, the day of the caption of this inquiſition, was poſſeſſed of the goods and chat-
" tels following, as of his own proper goods, to wit, of the price of
" which I, the ſaid ſheriff, have cauſed to be delivered to the ſame C. D. to hold to him
" as his own proper goods and chattels, in part of ſatisfaction of his debt and damages
" aforeſaid, in the ſaid writ mentioned: And further the ſaid jurors upon their oath do ſay,
" that the ſaid A. B. at the time of rendering the judgment aforeſaid, was ſeized in his own
" demeſne, as of fee, of and in [here name the houſes and lands] with the appurtenances
" of the annual value in all the iſſues beyond reprizes of pounds, acres
" of which, or thereabouts, are a true and equal moiety of all and ſingular the lands, te-
" nements, and hereditaments whatſoever, in the county aforeſaid, of the ſaid A. B. which
" ſaid moiety, I the ſaid ſheriff, the day aforeſaid, to C. D. in the ſaid writ named, at a
" reaſonable extent, have delivered to hold to him and his aſſigns, as his freehold, accord-
" ing to the form of the act in that caſe made and provided, until he ſhall have levied the
" reſidue of the debt and damages aforeſaid, as the writ aforeſaid requires; and further the
" ſaid jurors upon their oath do ſay, that the ſaid A. B. at the time of giving the judgment
" aforeſaid, had not, nor at the day of taking this inquiſition, hath any other or more
" goods and chattels, lands or tenements in the county aforeſaid, to the knowledge of the ju-
" rors aforeſaid. In teſtimony whereof, as well I the ſaid ſheriff, as the jurors aforeſaid, to
" this inquiſition have ſeverally put our ſeals, the day, year, and place above-mentioned."

RETURN OF A CAPIAS AD SATISFACIENDUM.

" By virtue of this writ to me directed, I have taken the within named A. B. whoſe
" body before the judges (or juſtices) within named, at the day and place within
" contained, I have ready to ſatisfy C. D. of the debt and damages within mentioned, as
" within to me is commanded."

OR,

" The within named A. B. is not found within my bailiwick."

II. When any writ of execution ſhall iſſue, and the party at whoſe ſuit the ſame is iſſued, ſhall afterwards deſire to take out another writ of execution at his own proper coſts and charges, the clerk may iſſue the ſame, if the firſt writ be not returned and executed; and where, upon a capias ad ſatisfaciendum the ſheriff ſhall return that the defendant is not found, the clerk may iſſue a fieri facias; and if upon a fieri facias, he ſhall return that the party hath no goods, or that only part of the debt is levied, in ſuch caſe it ſhall be lawful to iſſue a capias ad ſatisfaciendum upon the ſame judgment; and where part of a debt ſhall be levied upon an elegit, a new elegit ſhall iſſue for the reſidue; and where nihil ſhall be

returned upon any writ of elegit, a capias ad ſatisfaciendum or fieri facias may iſſue, and ſo vice verſa; and where one judgment is obtained againſt ſeveral defendants, execution thereon ſhall iſſue as if it were againſt one defendant, and not otherwiſe.

III. If a tenant, by elegit be evicted of his title in the lands, tenements or hereditaments which he holds by virtue of any extent thereof, by judgment had againſt him, otherwiſe than by his own fraud or default, before ſatisfaction ſhall be made him for his debt or damages and coſts, he ſhall and may have a writ of ſcire facias againſt the debtor, his heirs, executors or adminiſtrators; and may thereafter ſue out ſuch other writ of execution for the reſidue of his debt or damages and coſts, as ſhall appear to remain unpaid, as if no execution had been theretofore iſſued.

IV. When any judgment or recognizance ſhall be extended, the ſame ſhall not be avoided or delayed by occaſion that any part of the lands or tenements extendible are or ſhall be omitted out of ſuch extent.

V. Saving always to the party and parties whoſe lands ſhall be extended, his and their heirs, executors, and aſſigns, his and their remedy for contribution againſt ſuch perſon and perſons, whoſe lands are or ſhall be omitted out of ſuch extent, from time to time.

VI. This act or any thing therein contained, ſhall not be conſtrued to give any extent or contribution againſt any heir or deviſee within the age of twenty-one years, during ſuch minority of ſuch heir or deviſee, for or in reſpect of any lands to ſuch heir or deviſee deſcended or deviſed, further or otherwiſe than might have been made before the making of this act.

VII. If any perſon being in priſon charged in execution, ſhall happen to die in execution, the party or parties at whoſe ſuit or to whom ſuch perſon ſhall ſtand charged in execution, for any debt or damages recovered, his or their executors or adminiſtrators may, after the death of the perſon ſo dying in execution, lawfully ſue forth and have new execution againſt the lands and tenements, goods and chattels, or any of them, of the perſon ſo deceaſed.

VIII. This act ſhall not extend to give liberty to any perſon or perſons, their executors or adminiſtrators, at whoſe ſuit any ſuch party ſhall be and die in execution, to have or take any new execution, againſt any the lands, tenements, or hereditaments of ſuch party dying in execution, which ſhall at any time after the ſaid judgment or judgments be by him ſold in bona fide, for the payment of any of his creditors, at whoſe ſuit he ſhall be in execution, and the money paid or ſecured to be paid to any ſuch creditors, with their privity, in diſcharge of his or their debts, or ſome part thereof.

IX. If any perſon taken in execution be delivered by privilege of either houſe of aſſembly, ſo ſoon as ſuch privilege ceaſeth, he ſhall return himſelf a priſoner in execution, or be liable to an eſcape. (*a*)

X. Where judgment ſhall be obtained in any county court or other inferior court of record within this commonwealth, for any debt or damages, and the perſon againſt whom ſuch judgment ſhall be obtained, ſhall remove himſelf or his effects, or ſhall reſide out of the limits of the juriſdiction of ſuch court, it ſhall be lawful for the clerk of the court, where judgment was given at the requeſt of the party for whom the ſame was rendered, to iſſue any writ of fieri facias, or capias ad ſatisfaciendum, or any other legal or proper writ of execution or attachment for the non-performance of a decree in chancery (as the caſe may require) in the form and under the teſte herein before preſcribed, and to direct the ſame to the ſheriff of any county, or ſerjeant of any corporation within this commonwealth, where the defendant or debtor, or his goods, ſhall be found; which ſaid ſheriff or other officer to whom the ſame ſhall be directed, is hereby empowered and required to ſerve and execute the ſame, and ſhall make return thereof to the court where the judgment was given, in the manner herein before preſcribed and directed. (*b*)

(*a*) 1785 c 55. (*b*) 1748 c 8 § 20.

XI. No writ of fieri facias, or other writ of execution, ſhall bind the property of the goods againſt which ſuch writ is ſued forth, but from the time that ſuch writ ſhall be delivered to the ſheriff, under ſheriff, coroner, or other officer, to be executed; and for the better manifeſtation of the ſaid time, ſuch ſheriff, coroner, or other officer, his deputy or agent, ſhall, upon the receipt of any ſuch writ, without fee for doing the ſame, endorſe upon the back thereof, the day of the month and year when he received the ſame; and if two or more writs ſhall be delivered againſt the ſame perſon in the ſame day, that which was firſt delivered ſhall be firſt ſatisfied. If any ſheriff, coroner, or other officer, to whom any execution ſhall be delivered, ſhall fail or neglect to endorſe thereon the day of the month and year when he received the ſame, every ſuch perſon, for every ſuch failure, ſhall be liable, on a motion to be made before the court from whence the execution iſſued, to a penalty, not exceeding fifteen per centum upon the amount of the ſaid execution, if it be for money or tobacco, and if it be for a ſpecific thing, one hundred dollars, to the uſe of the party injured, upon giving ten days previous notice of ſuch motion; and ſhall moreover be liable to the action of the party grieved, for all damages ariſing from ſuch failure.

XII. On all executions which have heretofore iſſued, or ſhall hereafter be iſſued, the ſheriff or other officer having publiſhed notice of the time and place of ſale, at the door of the courthouſe of his county on ſome court day, and at ſome public place near the reſidence of the debtor, at leaſt ten days before ſuch ſale, ſhall proceed to ſell by auction the goods or chattels ſo taken, or ſo much thereof as ſhall be ſufficient to ſatisfy the judgment or decree, for the beſt price that can be got for the ſame. (*a*)

XIII. If the owner of ſuch goods and chattels ſhall give ſufficient ſecurity to ſuch ſheriff or officer, to have the ſame goods and chattels forthcoming at the day of ſale, it ſhall be lawful for the ſheriff or officer, to take a bond from ſuch debtor and ſecurities, payable to the creditor, reciting the ſervice of ſuch execution, and the amount of the money or tobacco due thereon, and with condition to have the goods or chattels forthcoming at the day of ſale appointed by ſuch ſheriff or officer, and ſhall thereupon ſuffer the ſaid goods and chattels to remain in the poſſeſſion, and at the riſk of the debtor until that time; and if the owner of ſuch goods and chattels, ſhall fail to deliver up the ſame, according to the condition of the bond, or pay the money or tobacco mentioned in the execution, ſuch ſheriff or officer ſhall return the bond to the office of the clerk of the court from whence the execution iſſued to be there ſafely kept, and to have the force of a judgment; and thereupon it ſhall be lawful for the court where ſuch bond ſhall be lodged, upon motion of the perſon to whom the ſame is payable, his executors or adminiſtrators, to award execution for the money and tobacco therein mentioned, with intereſt thereon from the date of the bond, till payment and coſts, provided the obligors, their executors or adminiſtrators, or ſuch of them againſt whom execution is awarded, have ten days previous notice of ſuch motion; and upon ſuch execution, or on any execution awarded on any bond, which ſhall hereafter be given to replevy an eſtate taken by a former execution, the ſheriff or officer ſhall not take any ſecurity either to have the goods forthcoming at the day of ſale, or for the payment of the money at a future day; but ſhall levy the ſame immediately, and keep in his hands the goods and chattels taken thereupon, until he ſhall have ſold ſufficient thereof to raiſe the money and tobacco mentioned in the execution, or the ſame be otherwiſe ſatisfied. (*b*)

XIV. And for the better direction of ſuch officer, the clerk ſhall endorſe upon any ſuch execution, "that no ſecurity of any kind is to be taken."

XV. If any ſheriff or other officer ſhall fail to deliver or return any bond taken for the forth-coming of property, by virtue of this act, within ſixty days after the date thereof, to the office of the clerk of the court, whence ſuch execution iſſued, he ſhall be liable

(*a*) 1787 c 7 (*b*) 1769 c 3—1788 c 77.

to the ſame penalty for every month of ſuch failure, to be recovered in the ſame manner as is directed by law againſt a ſheriff or coroner failing to return an execution. *(a)*

XVI. When execution ſhall iſſue againſt the eſtate of any ſheriff, under ſheriff, ſerjeant of a corporation, coroner or conſtable, or their ſecurities, or the heirs, executors or adminiſtrators of either of them, upon a judgment obtained againſt ſuch ſheriff, under ſheriff, ſerjeant of a corporation, coroner, or conſtable, or ſecurities, or the heirs, executors or adminiſtrators of either of them, for money or tobacco received of ſuch ſheriff, under ſheriff, ſerjeant of a corporation, coroner or conſtable, by virtue of any execution or proceſs, levied or executed by him, or them, or for any money collected or received by them in any manner, as ſheriffs, ſerjeants, coroners, or conſtables, no ſecurity for payment of the money or tobacco mentioned in ſuch execution at a future day, or to have the goods forthcoming at the day of ſale, ſhall be taken or received; but the officer taking ſuch eſtate in execution, ſhall proceed immediately to the ſale thereof, notwithſtanding ſuch ſecurity ſhall be tendered; and for the better direction of ſuch officer, the clerk iſſuing ſuch execution ſhall endorſe thereon, "that no ſecurity of any kind is to be taken." In like manner on all executions which may iſſue againſt any collector of the poor rates, his heirs, executors or adminiſtrators, or againſt any overſeer or overſeers of the poor, his, or their heirs, executors or adminiſtrators, on any judgment obtained, or which may hereafter be obtained againſt him or them, for, or on account of any money or tobacco which have or may hereafter come to his or their hands, levied for the ſupport of the poor, the clerk ſhall endorſe "no ſecurity to be taken." *(b)*

XVII. No ſheriff or other officer, to whom any writ of fieri facias ſhall be directed, ſhall take in execution any ſlave or ſlaves, unleſs the debt and coſts mentioned in ſuch fieri facias ſhall amount to the ſum of thirty-three dollars, or two thouſand pounds of tobacco; provided there be ſhewn to ſuch ſheriff or officer, by the defendant, or any other perſon, ſufficient other goods or chattels of ſuch defendant, within the bailiwick of ſuch ſheriff or officer, upon which he may levy the debt and coſts mentioned in ſuch fieri facias. *(c)*

XVIII. Where any ſlave or ſlaves ſhall be taken in execution, and ſold, the names of ſuch ſlaves ſhall be certified on the back of ſuch execution, and returned to and recorded among the records of the court where ſuch execution ſhall iſſue. *(d)*

XIX. If the goods taken by any ſheriff or other officer, or any part thereof ſhall remain in his hands unſold, he ſhall make return accordingly, and thereupon the clerk of the court from whence the execution iſſued, ſhall and may, and he is hereby required, to iſſue a venditioni exponas to ſuch ſheriff or other officer directed, whereupon the like proceeding ſhall be had, as might and ought to have been had on the firſt execution; which writ of venditioni exponas ſhall be in the form following: *(e)*

"The commonwealth, &c. greeting: We command you that you expoſe to ſale, thoſe "goods and chattels of A. B. to the value of which, according to our command, "you have taken, and which remain in your hands unſold, as you have certified to our "judges (or juſtices) of our court, to ſatisfy C. D. the ſum of , whereof "in our ſaid court he hath recovered execution againſt the ſaid A. B. by virtue of a judg-"ment in the ſaid court; and that you have, &c."

XX. When any ſheriff or other officer ſhall ſerve any writ of execution on ſlaves, horſes, or any live ſtock, and the ſame ſhall not be immediately replevied or reſtored to the debtor, it ſhall and may be lawful for ſuch officers, and they are hereby required, to provide ſufficient ſuſtenance for the ſupport of ſuch ſlaves or live ſtock, until ſuch ſlaves or ſtock be ſold, or otherwiſe legally diſcharged from ſuch execution, and upon the return of any execution, the court may and ſhall upon the motion of the officer ſerving the ſame, ſettle and adjuſt what ſuch officer ſhall be allowed for his expences incurred by ſupporting

(a) 1791 c 3 § 4 *(b)* 10 Geo. III c 3 § 6—1791 c 20 § 6 *(c)* 1748 c 8 § 26 *(d)* 1764 c 6 § 7 *(e)* 1748 c 8 § 9—1791 c 3 § 6.

ſuch ſlaves or ſtock; and the ſaid officers ſhall and may be allowed to retain the ſame out of the money ariſing from the ſale of the ſaid ſlaves or ſtock. *(a)*

XXI. If any ſheriff ſhall levy an execution on property, and a doubt ſhall ariſe, whether the right of ſuch property is in the debtor or not, ſuch ſheriff may apply to the plaintiff, his attorney, or agent, for his bond with good ſecurity, for indemnification for the ſale of the property ſeized, which, if the plaintiff, his attorney, or agent refuſes or fails to do within a reaſonable time after ſuch application, the ſheriff or other officer ſhall be juſtified in delivering up ſuch property to the party from whoſe poſſeſſion the property was taken.

XXII. If the goods or other eſtate taken in execution, cannot be ſold for three fourths of their value at leaſt, in the opinion of the perſons hereafter directed to be appointed for that purpoſe, it ſhall and may be lawful for the debtor or debtors, or any of them, to enter into bond with ſufficient ſecurity, to be approved by the perſons aforeſaid, to pay the money or tobacco for which execution was ſo ſerved, and all coſts, with lawful intereſt for the ſame to ſuch creditor, within twelve months: And on ſuch bond being given, the ſheriff or other officer ſhall reſtore to ſuch debtor, the goods or eſtate ſo taken; and where no ſuch bond and ſecurity ſhall be offered, by the debtor, or any perſon for him, and the goods or other eſtate taken in execution, cannot in the opinion of the perſons aforeſaid, be ſold for three-fourths of their value at leaſt, the ſheriff or other officer, ſhall ſet up and ſell the ſame for money or tobacco, (as the caſe may be) to be paid at the end of twelve months, and ſhall take bond of the buyer or buyers, with one or more ſufficient ſecurities to pay the ſame accordingly, with intereſt, to ſuch creditor. *(b)*

XXIII. All and every bond or bonds ſo taken in purſuance of this act, ſhall mention that the ſame was or were entered into, for goods or other eſtate taken in execution, and returned to the debtor, or ſold to the obligor (as the caſe may be) and ſhall have the force of judgmnets, and ſhall alſo be aſſignable; and ſuch ſheriff or other officer taking ſuch bond, ſhall deliver the ſame to the creditor, or his attorney, or return it to the office of the clerk of the court, from whence ſuch execution iſſued, there to be ſafely kept, until demanded by the creditor, or his attorney. And if the money or tobacco ſhall not be paid according to the condition of any ſuch bond, it ſhall be lawful for the creditor or his aſſignee, or the attorney of ſuch creditor or aſſignee, to lodge the ſame, with an affidavit, that the money or tobacco for which ſuch bond was given, or part thereof, is ſtill due, with the clerk of the court from whence the execution iſſued; and ſuch clerk ſhall and may thereupon iſſue an execution for ſo much as ſhall appear from the ſaid bond and affidavit to be ſtill due; and upon ſuch execution, the ſheriff or other officer ſhall not take any ſecurity for the payment of the money or tobacco at a future day, but ſhall levy the ſame immediately, and ſell the property on which the execution ſhall be ſo levied, for the beſt price that can be had for the ſame. *(b)*

XXIV. If any obligor or obligors, obligee or obligees, in any twelve months replevy bond taken on any execution under this act, or aſſignee of any ſuch obligee, (as the caſe may be) ſhall die before ſuch bond ſhall be fully paid, it ſhall and may be lawful for the clerk of any court within this commonwealth, upon the application and oath of the executors or adminiſtrators of any ſuch obligee or aſſignee, that the amount of ſuch bond is not diſcharged, to iſſue a writ of execution againſt every ſuch obligor or obligors, his or their executors or adminiſtrators, and to endorſe thereon "no ſecurity is to be taken." Any law to the contrary notwithſtanding. *(c)*

XXV. If on return of ſuch execution, the debtor can prove the payment of the money for which ſuch execution was levied, either to the aſſignee or original obligee, before notice of ſuch aſſignment (as the caſe may be) it ſhall and may be lawful for the court to quaſh ſuch execution, or give ſuch other judgment therein as to them ſhall ſeem right,

(a) 1772 c 6 § 7 *(b)* Oct. 1787 c 7 § 3 *(c)* 1791 c 3 § 8.

and the perſon in whoſe names ſuch execution iſſued, ſhall moreover be liable to the action of ſuch debtor for damages. And for the better direction of ſuch ſheriff or other officer, the clerk ſhall endorſe upon ſuch execution, that "no ſecurity ſhall be taken:" *Provided*, That nothing in this act contained, ſhall be conſtrued to extend the right of giving ſecurity for payment of the money or tobacco mentioned in ſuch execution at a future day, or to have the goods forth-coming at the day of ſale, to the defendant or defendants, in any judgment or execution not exceeding the ſum of five dollars; or to any execution againſt a ſheriff, coroner, public collector, or other perſon legally authoriſed to receive any part of the public revenue, or their ſecurities; or to any execution againſt any ſuch officer or his ſecurities, for money received by him under an execution or other proceſs; or for any money or tobacco collected or received by him or them, in any manner as ſheriffs or public collectors; nor to attornies receiving money of their clients; nor to ſecurities under an act, intituled, "An act to empower ſecurities to recover damages in a "ſummary way." (*a*)

XXVI. Whereſoever on a ſale under execution upon twelve months credit, the amount of ſuch ſale ſhall exceed the principal, intereſt, and coſts, the ſheriff or coroner (as the caſe may be) ſhall take a ſeparate bond with ſufficient ſecurity, from the buyer or buyers, for the payment of ſuch exceſs or ſurplus to the debtor, with legal intereſt at the end of twelve months, from the date thereof, and it ſhall be expreſſed in the ſaid bond, that it was given for a ſurplus or exceſs as aforeſaid; and the ſaid ſheriff or coroner (as the caſe may be) ſhall deliver every bond ſo taken to the debtor, his agent, attorney, or other legal repreſentative, or return it to the clerk's office; and it ſhall have the force of a judgment, be aſſignable, and, in all things concerning the ſame, be proceeded on in like manner as is above preſcribed, in caſe of bonds given to a creditor. And if the ſheriff or coroner (as the caſe may be) ſhall fail to deliver or return as aforeſaid, any bond ſo taken, within thirty days from the date thereof, he ſhall be liable to the ſame penalty for every month of ſuch failure, to be recovered in the ſame manner as is directed by law againſt a ſheriff or coroner failing to return an execution. (*b*)

XXVII. The court of every county and corporation within this commonwealth, ſhall appoint nine perſons to act as judges of the value of property, and the ſufficiency of ſecurities that may be offered under this act; and no ſale under execution ſhall be made, but in the preſence of at leaſt three of the ſaid perſons, except in the caſes herein after mentioned: *Provided always*, That in any caſe where the creditor, his agent, or attorney, ſhall be diſſatisfied with the ſufficiency of the ſecurity admitted by ſuch valuers, it ſhall be lawful for ſuch creditor to appeal to the court to be held for the county or corporation within three months after the return day of the ſaid execution, thereupon giving notice to the debtor or his attorney, and if ſuch court ſhall be of opinion, that the ſecurity ſo admitted was inſufficient, the execution upon which ſuch ſecurity was admitted, ſhall be deemed and taken as a lien upon the goods and chattels of ſuch debtor, and ſhall not be diſcharged but upon payment of the debt and coſts, or tender of other ſufficient ſecurity, ſatisfactory to the court; and moreover the bond and ſecurity given by ſuch debtor, ſhall remain valid until ſuch counter ſecurity be given. There ſhall be paid by the creditor, his agent, attorney or other repreſentative, to each of the valuers appointed by virtue of this act, ſixty-ſeven cents for each day's attendance at any ſale, and no more, let the number of executions be what it may, which ſhall be taxed in the bill of coſts, where there is but one execution, and where there ſhall be more than one, in the bill of coſts on each execution, proportioned to the amount thereof, and reimburſed to him accordingly; and ſuch attendance ſhall not be taxed for more than three valuers in any caſe. And where any property ſhall be returned to the debtor, or ſold on twelve months credit under this act, ſuch perſons ſhall give the ſheriff or other officer a certificate, that in their opinions, ſuch property would not ſell for three-fourths of

(*a*) 1769 c. 3 § 6—1787 c 7 § 4 (*b*) 1788 c 77 § 1.

its real value, and that the ſecurity taken was ſufficient; and ſuch certificate ſhall be returned with the execution by the ſheriff, and ſhall be a full indemnification for him therein. Every perſon appointed by a court to judge of the value of property taken in execution, and of the ſufficiency of ſecurities offered agreeably to the directions of this act, ſhall, before he proceeds to act under ſuch appointment, take an oath before the court of the county or corporation, or a magiſtrate thereof, "That he will truly and impartially execute the truſt repoſed in him by this act." *(a)*

XXVIII. Where any bond directed or permitted to be given by this act ſhall be aſſigned, and execution iſſued thereon againſt the original obligor or obligors, and on ſuch execution there ſhall be a return by the ſheriff or other officer, that there were no goods, or not ſufficient goods of the obligor or obligors, to make the debt and coſts, it ſhall be lawful for the clerk who iſſued ſuch execution, to iſſue a ſecond execution againſt the aſſignor or aſſignors of ſuch bond, for the debt mentioned therein, or ſuch part thereof as ſhall appear to be ſtill due, on which execution there ſhall be ſimilar proceedings to thoſe on an execution againſt the original obligors.

XXIX. Where any writ of capias ad ſatisfaciendum has been or ſhall be ſerved on any debtor, it ſhall be lawful for ſuch debtor to tender to the ſheriff or other officer ſerving the ſame, ſlaves or perſonal property to the value of the debt and coſts, for which ſuch execution has iſſued, or may hereafter iſſue, which property the ſaid ſheriff or other officer ſhall receive and proceed to ſell in like manner as is herein directed, in the caſe of goods taken in execution upon a writ of fieri facias, and ſhall thereupon diſcharge ſuch debtor out of cuſtody. *Provided always*, That if ſuch property ſo tendered, ſhall not be ſufficient to ſatisfy the debt or damages, and coſts, or ſhall be under any lien or incumbrance, ſo as that the whole cannot be ſold, a new capias ad ſatisfaciendum, or fieri facias, at the option of the plaintiff, ſhall iſſue for any balance, and the clerk of the court from which ſuch execution originally iſſued, ſhall upon the return of the ſheriff of the inſufficiency or incumbrance as aforeſaid, iſſue a new capias ad ſatisfaciendum, or fieri facias, if required. But where ſuch property ſhall have been under any incumbrance, the debtor ſhall not be at liberty to tender ſlaves or perſonal eſtate on a ſecond capias ad ſatisfaciendum being ſerved, or in caſe of a fieri facias iſſued in conſequence of ſuch return, to avail himſelf of the privileges of this act. *(b)*

XXX. Nothing in this act contained ſhall be conſtrued to extend to any proceedings that may be had in conſequence of any diſtreſs made or to be made, for any rent reſerved and due, or which may hereafter become due upon any demiſe, leaſe or contract, whatſoever.

XXXI. The valuers ſhall be amenable to their reſpective county or corporation courts and at the diſcretion of ſuch courts, may be deprived of their office, for neglect of duty or malfeaſance therein; and upon the death, reſignation, or removal from office of any ſuch valuer, the vacancy ſhall be ſupplied by new appointment of the county or corporation court in which it ſhall happen.

XXXII. When the ſheriff ſhall under any execution have fixed the time and place for the ſale of the property taken under ſuch execution, he ſhall ſummon three of the commiſſioners appointed to value the property, and aſcertain the ſufficiency of ſecurities, to attend at the time and place of ſuch ſale; if only two of the ſaid commiſſioners attend, they ſhall after the hour of two o'clock, chooſe one of the by-ſtanders to aſſiſt them in ſuch valuation; if only one of the ſaid commiſſioners ſhall attend, he ſhall, at the ſame time, and in the ſame manner, chooſe one of the by-ſtanders, and they ſhall, together, chooſe a third to value ſuch property as aforeſaid; if neither of the ſaid commiſſioners ſhall attend, the ſale ſhall be poſtponed until another day, which ſhall not be longer than ten days, when the

(a) 1787 c 7 § 5—1788 c 77 § 8 *(b)* 1788 c 7 § 6

ſame proceedings ſhall be had as are directed to take place on the day firſt appointed for the ſale. The ſheriff ſhall adminiſter the ſame oaths to the perſons choſen by the commiſſioners, as are directed by this act, to be adminiſtered to the commiſſioners by the county or corporation courts. *Provided always*, That the ſaid commiſſioners ſhall not be ſummoned upon any fieri facias, where the debt, or damages and coſts, ſhall not exceed thirty-three dollars, unleſs the defendant, his agent, attorney, or other legal repreſentative, ſhall require the ſame; and where the commiſſioners ſhall not be ſummoned, and the debt or damages ſhall not exceed the ſum aforeſaid, the ſale ſhall proceed, and the ſheriff or other officer poſſeſs and exerciſe the ſame power of valuation, as the commiſſioners would have poſſeſſed and exerciſed, had they been ſummoned, but ſhall receive no reward for ſuch valuation. *(a)*

XXXIII. The valuers ſhall make known in every caſe to any perſon requiring the ſame, before or at the ſale, the valuation by them made of the goods or other eſtate taken in execution; the ſheriff or coroner (as the caſe may be) ſhall be allowed for taking the bonds to the creditor, ſixty-two cents, and no more; for proceeding to ſell, if the property be actually ſold or the debt paid, the commiſſion of five per centum on the firſt three hundred dollars, or ten thouſand pounds of tobacco, and two per centum upon all ſums above that, and one half of ſuch commiſſion, where he ſhall have proceeded to ſale, and the defendant ſhall have replevied; and no other commiſſion, fee or reward, ſhall be allowed upon any execution, except for the expence of removing and keeping the property taken. *(b)*

XXXIV. Upon actual ſale of any property under this act, no principal debtor ſhall become the ſecurity.

XXXV. Whereſoever on a ſale for caſh or tobacco made under any execution, the amount of ſuch ſale ſhall exceed the principal, intereſt and coſts, the ſheriff or other officer ſhall pay ſuch exceſs or ſurplus to the debtor, his executors, adminiſtrators or agent; and if any ſheriff or other officer, ſhall fail or refuſe to pay ſuch ſurplus or exceſs when required, ſuch ſheriff or other officer, his or their ſecurity, or ſecurities, his or their executors or adminiſtrators, ſhall each and every of them, be liable to the like penalty and judgment in favor of the ſaid debtor, as is preſcribed and directed by law in favor of the plaintiff againſt the ſheriff, for not paying the principal, intereſt and coſts, levied on an execution. *(d)*

XXXVI. When any ſheriff, or other officer, under any execution, ſhall receive the whole, or any part of the money or tobacco for which the ſaid execution was iſſued, and the perſon againſt whom ſuch execution may have iſſued, his executors or adminiſtrators ſhall obtain an injunction to ſuch execution, or for any part of the money or tobacco mentioned therein, before the money or tobacco ſo received by ſuch ſheriff or officer is paid to the plaintiff, his agent or attorney, or his executors or adminiſtrators; in every ſuch caſe the ſheriff or other officer, his executors or adminiſtrators, ſhall repay the perſon or perſons againſt whom ſuch execution iſſued, his or their executors, adminiſtrators or agent, the money or tobacco ſo received, or ſuch part thereof as may be enjoined; and if any ſheriff, or other officer, his or their executors, or adminiſtrators, ſhall fail or refuſe when required, to pay ſuch ſum of money or tobacco ſo received and enjoined, to the perſon having a right to demand the ſame, ſuch ſheriff or other officer, and their ſecurities, his and their executors and adminiſtrators, and every of them, ſhall be liable to the like penalty and judgment, in favor of the perſon, his executors or adminiſtrators, by whom the ſaid injunction is obtained, as is directed by law, in favor of the plaintiff againſt the ſheriff, for not paying money or tobacco levied on an execution. *(e)*

XXXVII. If any perſon or perſons taken or charged in execution, ſhall enter into bond with good and ſufficient ſecurities, under a reaſonable penalty, upon condition that he or

(a) 1788 c 7 § 11 *(b)* 1788 c 77 § 4, 9, 11 *(c)* 1788 c 77 § 10 *(d)* 1791 c 3 § 2. *(e)* 1791 c 35 § 3

they ſhall not depart, or go out of the rules or bounds of the priſon to which he or they be committed, it ſhall be lawful for the ſheriff or officer in whoſe cuſtody ſuch priſoner ſhall be, to permit him or them to go out of the priſon, and return at their pleaſure. *(a)*

XXXVIII. And for the relief of inſolvent debtors, who ſhall be taken in execution, and to prevent the long impriſonment of unfortunate people, which can be of no benefit, but rather a diſadvantage to their creditors: *Be it further enacted*, That if any perſon ſhall hereafter be taken, or charged in execution, in any ſuit commenced, or proſecuted in any court of record within this commonwealth; it ſhall be lawful for any judge or juſtice of the ſaid court, or of the court of that county or corporation to whoſe jail ſuch perſon ſhall be committed, by warrant under his hand and ſeal, to command the jailor or keeper of the ſaid priſon, to bring before the ſaid court, if ſitting, or if not ſitting, in caſe it be a ſuperior court, before any two judges of the ſaid court, at a certain time and place therein to be appointed, and if an inferior court, before any two juſtices of the ſaid court, at their county courthouſe, likewiſe on a certain day to be appointed in ſuch warrant, the body or bodies of ſuch perſon or perſons ſo in priſon as aforeſaid, together with a liſt of the ſeveral executions, with which he or ſhe ſhall ſtand charged in the ſaid jail, which warrant ſuch jailor is hereby required to obey; and reaſonable notice thereof ſhall be given to the party or parties, his or their executors, adminiſtrators, or agents, at whoſe ſuit ſuch priſoner or priſoners ſhall be in execution. And every ſuch priſoner coming before the ſaid court, judges or juſtices, as the caſe ſhall be, ſhall ſubſcribe and deliver in a ſchedule of his whole eſtate, and make oath and ſwear to the effect following, that is to ſay:

"I, A. B. do, in the preſence of Almighty God, ſolemnly ſwear, or affirm, (as the caſe "may be) that the ſchedule now delivered, and by me ſubſcribed, doth contain, to the beſt "of my knowledge and remembrance, a full, juſt, true and perfect account and diſcovery "of all the eſtate, goods and effects unto me any ways belonging, and ſuch debts as are to "me owing, or to any perſon in truſt for me; and of all ſecurities and contracts whereby "any money may hereafter become payable, or any benefit or advantage accrue to me, or "to my uſe, or to any other perſon or perſons in truſt for me, and that I, or any other per"ſon or perſons in truſt for me, have not land, money, ſtock, or any other eſtate, real or "perſonal, in poſſeſſion, reverſion, or remainder, of the value of the debt or debts with "which I am charged in execution; and that I have not, directly or indirectly, ſold, leſ"ſened, or otherwiſe diſpoſed of in truſt, or concealed all, or any part of my lands, money, "goods, ſtock, debts, ſecurities, contracts, or eſtate, whereby to ſecure the ſame, or to re"ceive or expect any profit or advantage therefrom; or to defraud or deceive any creditor "or creditors to whom I am indebted, in any wiſe howſoever. So help me God." *(b)*

XXXIX. Which ſchedule being ſo ſubſcribed in open court, if taken in court, and if not, in the preſence of two judges or juſtices, ſhall be returned to the clerk of the court, there to remain for the better information of the creditors; and after delivering in ſuch ſchedule, and taking ſuch oath, ſuch priſoner ſhall be diſcharged by warrant from ſuch court, or from two judges or juſtices, (as the caſe may be) which warrant ſhall be ſufficient to indemnify ſuch ſheriff or officer againſt any eſcape or eſcapes, action or actions whatſoever, which ſhall, or may be brought or proſecuted againſt him or them by reaſon thereof. And if any action ſhould be commenced againſt any ſheriff or officer for performing his duty in purſuance of this act, he may plead the general iſſue, and give this act in evidence. *Provided always*, That notwithſtanding ſuch diſcharge, it ſhall be lawful for any creditor or creditors, by judgment at any time afterwards, to ſue out a writ of ſcire facias, to have execution againſt any lands or tenements, goods or chattels, which ſuch inſolvent perſon ſhall thereafter acquire or be poſſeſſed of. But no perſon delivering in ſuch ſchedule, and having taken the ſaid oath, ſhall again be impriſoned on account of any judgment which ſhall have been obtained againſt him, previous to the time of taking ſuch oath, unleſs by virtue

(a) 1748 c 8 § 21 *(b)* 1748 c 8 § 24—1769 c 3 § 7—1753 c 1 § 31—1748 c 8 § 24.

of a capias ad ſatisfaciendum, directed to iſſue by the court in which the ſaid judgment ſhall have been rendered. *(a)*

XL. All the eſtate which ſhall be contained in ſuch ſchedule, and any other eſtate which may be diſcovered to belong to the priſoner, for ſuch intereſt therein, as ſuch priſoner hath, and may lafully depart withal, ſhall be veſted in the ſheriff of the county, wherein ſuch lands, tenements, goods or chattels ſhall lie or be found; and ſuch ſheriff is hereby authoriſed, empowered and required, within ſixty days after the taking the ſaid oath, ten days previous notice of the time and place of ſale being given, to ſell and convey the ſame to any perſon or perſons whatſoever, for the beſt price that can be got for the ſame, and the money ariſing from ſuch ſale, ſhall be by ſuch ſheriff or officer paid to the creditor or creditors, at whoſe ſuit ſuch priſoner or priſoners ſhall be impriſoned, ſaving to every ſuch priſoner, his or her neceſſary apparel and utenſils of trade. And if any ſheriff or other officer ſhall fail to pay the money ariſing from ſuch ſale according to law, he ſhall be liable to the ſame penalty, to be recovered in the ſame manner, and by the ſame perſons, as if the ſaid money had been levied by a fieri facias. *(b)*

XLI. When any inſolvent debtor ſhall be diſcharged purſuant to this act, and the ſchedule ſubſcribed and delivered in by ſuch priſoner, ſhall contain articles of money or tobacco due to ſuch priſoner, or of goods, chattels, or eſtates belonging to him, and in the poſſeſſion of any other, in that caſe the clerk of the court, with whom ſuch ſchedule is directed to remain, ſhall immediately iſſue a ſummons againſt each of the perſons named as debtors in the ſaid ſchedule, and againſt ſuch others as are therein ſaid to have poſſeſſion of any goods, chattels, or eſtates of the property of the priſoner, reciting the ſum of money, or the quantity of tobacco he or ſhe is charged with, or the particular goods, chattels, or eſtates ſaid to be in his poſſeſſion, and requiring him or her to appear at the next court, and to declare on oath, whether the ſaid money or tobacco, or any part thereof, be really due to ſuch priſoner, or whether ſuch goods, chattels or eſtate be really in his or her poſſeſſion, and are the property of ſuch priſoner; and if the perſon ſo ſummoned, ſhall fail to attend according to ſuch ſummons, or to ſhew good cauſe for his non-attendance, it ſhall be lawful for the court to enter judgment againſt every ſuch perſon, for the money, tobacco, goods, chattels, or eſtates, in ſuch ſchedule mentioned, together with coſts of ſuit, a lawyer's fee excepted; and if any ſuch perſon ſo ſummoned, ſhall appear and be ſworn, judgment ſhall be entered for ſo much of the money, tobacco, goods, chattels or eſtates, as he or ſhe ſhall acknowledge to be due, or to be of the property of ſuch priſoner, and in his poſſeſſion, with coſts as aforeſaid; which judgment ſhall be entered in the name of the ſheriff, who may thereupon proceed to levy the executions, as in other caſes, and to diſpoſe of the money, tobacco, goods, chattels or eſtates ſo recovered, in the ſame manner as the eſtate contained in the ſchedule, is hereby directed to be diſpoſed of. *(c)*

XLII. Where any ſuch garniſhee ſhall not acknowledge the whole money or tobacco to be due, or all the goods, chattels, or eſtates mentioned in the ſchedule, to be of the property of the priſoner, and in his poſſeſſion, the ſheriff or ſuch priſoner at any time after, unleſs barred by any of the acts, limiting the time for the commencement of actions, ſhall be at liberty to claim the reſidue by legal proceſs, and the former judgment as to ſuch garniſhee, ſhall be no further bar in ſuch proceſs, than for ſo much money or tobacco, or ſuch goods, chattels and eſtates as the garniſhee is thereby ordered to pay or deliver.

XLIII. Every ſheriff ſhall be allowed to retain out of the effects of ſuch inſolvent debtor, before the diſtribution thereof, all reaſonable expences in recovering ſuch money, tobacco, goods, chattels and eſtates as aforeſaid, including ſuch a fee to a lawyer for the proceeding againſt the garniſhee, as ſhall be judged reaſonable by the court, and if ſuch effects be not ſufficient, he ſhall be reimburſed ſuch expences by the creditor or creditors, if more than one, in proportion to their demands.

(a) 1769 c 3 § 7—1748 c 8 § 26 *(b)* 1769 c 3 § 9—1748 c 8 § 25 *(c)* 1769 c 3 § 10

XLIV. Where ſuch inſolvent perſon ſhall not be able to ſatisfy and pay his ordinary priſon fees, the ſheriff or jailor may demand and receive of the party or parties, at whoſe ſuit ſuch inſolvent perſon ſhall be impriſoned, all ſuch fees as ſhall become due until ſuch creditor ſhall agree to releaſe ſuch priſoner; and if the creditor upon notice given to him or her, his or her attorney, or agent, ſhall refuſe to give ſecurity to the ſheriff or jailor, for the payment of ſuch priſon fees, or ſhall fail to pay the ſame when demanded, ſuch ſheriff or jailor ſhall diſcharge ſuch debtor out of priſon. *(a)*

XLV. Such inſolvent priſoner ſhall be afterwards liable to the action of the creditor to recover ſuch fees, and ſuch creditor ſhall and may, notwithſtanding his conſent to the releaſing ſuch priſoner, at any time afterwards, ſue out a ſcire facias to have a new execution againſt the lands and tenement, goods and chattels of ſuch priſoner, in caſe he or ſhe ſhall afterwards become poſſeſſed of any. *(b)*

XLVI. When any debtor is in cuſtody on ſeveral executions, it ſhall not be lawful for ſuch debtor to demand any more or other dieting, than if he was in cuſtody on one execution only; nor ſhall any ſheriff or jailor demand or receive more than the rate fixed by law, in caſe of a debtor confined on one execution only, which ſhall be paid by the creditor, at whoſe ſuit ſuch debtor was firſt taken. *(c)*

XLVII. An execution appearing to be duly ſerved in other reſpects ſhall be deemed good, although it be not directed to any ſheriff. *(d)*

XLVIII. If a diſtringas iſſue in detinue, the court, for good cauſe ſhewn, may direct it to be ſuperſeded, ſo far as it relates to the ſpecific thing, and to be executed for the alternative price or value only, if fixed in the judgment, or if the ſame ſhall afterwards be fixed by a writ of enquiry. *(e)*

XLIX. If a replevy or forthcoming bond be quaſhed as faulty, the ſheriff taking the ſame, ſhall be at all times liable for damages to the party injured, or his repreſentative. *(f)*

L. And whereas doubts have ariſen in what manner judgment ſhould be rendered againſt any ſheriff, coroner, or ſerjeant of a corporation, who ſhall fail to return an execution to the office from whence it iſſued, on or before the return day thereof: *Be it enacted*, That where any writ of execution, or attachmant for not performing a decree in chancery, ſhall come into the poſſeſſion of any ſheriff, coroner, or ſerjeant of a corporation, and he ſhall fail to return the ſame to the office from whence it was iſſued, on or before the return day thereof, it ſhall be lawful for the court, ten days previous notice being given, upon the motion of the party injured, to fine ſuch ſheriff, coroner, or ſerjeant of a corporation, at their diſcretion, in any ſum not exceeding five dollars per month, for every hundred dollars contained in the judgment or decree, on which the execution or attachment, ſo by him detained, was founded, and ſo in proportion for any greater or leſſer ſum, counting the aforeſaid months from the return day of the execution or attachment, to the day of rendering judgment for the ſaid fine. *(g)*

LI. If any ſheriff, under ſheriff, or other officer, ſhall make return upon any writ of fieri facias or venditioni exponas, that he hath levied the debt, damages or coſts, as in ſuch writ is required, or any part thereof, and ſhall not immediately pay the ſame to the party, to whom the ſame is payable, or his attorney, or ſhall return upon any writ of capias ad ſatisfaciendum, or attachment, for not performing a decree in chancery for payment of any ſum of money, or tobacco, that he hath taken the body or bodies of the defendant or defendants, and hath the ſame ready to ſatisfy the money and tobacco in ſuch writ mentioned, and ſhall have actually received ſuch money or tobacco of the defendant or defendants, or have ſuffered him, her or them to eſcape, with the conſent of ſuch ſheriff, under ſheriff, or officer, and ſhall not immediately pay ſuch money or tobacco to the party to whom the

(a) 1772 c 13 § 1—1748 c 8 § 2 *(b)* 1748 c 8 § 28 *(c)* 1789 c 13 § 38 *(d)* 1788 c 67 § 75 *(e)* 1788 c 67 § 76 *(f)* 1788 c 67 § 78 *(g)* 1791 c 3 § 5.

ſame is payable, or his attorney, then or in either of the ſaid caſes, it ſhall and may be lawful for the creditor, at whoſe ſuit ſuch writ of fieri facias, venditioni exponas, capias ad ſatisfaciendum, or attachment ſhall iſſue, upon a motion made in the next ſucceeding general court, or other court from whence ſuch writ ſhall iſſue, to demand judgment againſt ſuch ſheriff, officer, or under ſheriff, or ſecurities of ſuch under ſheriff, for the money or tobacco mentioned in ſuch writ, or ſo much as ſhall be returned levied on ſuch writs of fieri facias, or venditioni exponas, with intereſt thereon, at the rate of fifteen per centum per annum, from the return day of the execution, until the judgment ſhall be diſcharged; and ſuch court is hereby authoriſed and required to give judgment accordingly, and to award execution thereon; provided ſuch ſheriff or officer have ten days previous notice of ſuch motion. *(a)*

LII. And whereas it is unreaſonable that ſheriffs ſhould be obliged to go out of their counties to give notice to creditors at whoſe ſuit any perſon may be in the cuſtody of ſuch ſheriff, or to pay money levied by execution: *Be it therefore enacted*, That where any execution ſhall be delivered to the ſheriff of any other county, than that where any creditor reſides, ſuch creditor ſhall name ſome perſon in the county where the execution is to be levied, to be his, her, or their agent, for the particular purpoſe of receiving the money on ſuch execution, and for giving to, and receiving from the ſheriff, any notices which may be neceſſary relating thereto, and payments made, and notices given to ſuch agent, ſhall be as effectual, as if made or given to the creditor. And if any creditor ſhall fail to appoint ſuch agent, no judgment ſhall be entered againſt the ſheriff for non-payment of the money and tobacco mentioned in ſuch execution, unleſs a demand thereof ſhall have been firſt made of ſuch ſheriff, in his county, by the creditor, or ſome other perſon having a written order from him: Nor in caſe of failure in appointing ſuch agent, ſhall the ſheriff or priſoner be obliged to give notice previous to the diſcharge of ſuch priſoner, either for want of ſecurity for his priſon fees, or upon his taking the oath of an inſolvent debtor. But ſuch priſoner ſhall be diſcharged in thoſe caſes reſpectively, without any notice to be given to the creditor ſo failing. *(b)*

LIII. After obtaining a final decree for lands, ſlaves, or money, or things of a ſpecific nature in any court having chancery juriſdiction, the clerk of ſuch court ſhall upon the requeſt of the party obtaining ſuch decree, iſſue a writ of execution, either a fieri facias, capias ad ſatisfaciendum, habere facias poſſeſſionem, or any judicial proceſs which may now iſſue from any court of common law, according to the nature of the caſe, for carrying the ſaid decree into effect; which writ ſhall iſſue in the name of the commonwealth, and bear teſte and be ſigned by the clerk of the court; and all proceſs ſo iſſued, ſhall be executed and returned to the clerk's office from which the ſame iſſued, from term to term, on the return days thereof, by the officer or officers to whom the ſame ſhall be directed, and ſhall have the ſame operation, and poſſeſs the ſame force to all intents and purpoſes, as ſimilar proceſs, iſſued upon judgments at common law. The officer or officers to whom any ſuch proceſs is directed, ſhall be ſubject to the like penalties for miſconduct or neglect, and the court ſhall exerciſe in this and in all caſes relating to ſuch proceſs, the ſame powers, as if the ſaid proceſs had iſſued upon a judgment obtained at common law. But nothing herein contained, ſhall prohibit any party from proceeding to carry any order or decree in chancery into execution, in any manner, in which he might avail himſelf before the paſſing of this act. *(c)*

LIV. No goods or chattels whatſoever, lying or being in or upon any meſſuage, lands or tenements, which are or ſhall be leaſed for life or lives, term of years, or will or otherwiſe, ſhall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretence whatſoever, unleſs the party ſo taking the ſame, ſhall, before removal

(a) 1753 c 1 § 36—1763 c 5 § 1—1789 c 13 § 37 *(b)* 1769 c 3 § 13 *(c)* 1787 c 10 § 4.

of the goods from off ſuch premiſes, pay or tender to the landlord, or leſſor thereof, or his agent, all the money or tobacco due for the rent of the ſaid premiſes, at the time of taking ſuch goods or chattels in execution. *Provided nevertheleſs*, That ſuch rent arrears do not amount to more than one year's rent, and if more be due, then the party ſuing out ſuch execution, paying or tendering to ſuch landlord, or his agent, one year's rent, may proceed to execute his judgment; and the ſheriff or officer ſerving the ſame, is hereby empowered and required to levy and pay to the plaintiff, as well the money or tobacco ſo paid for rent as the execution money. (*a*)

LV. All acts or parts of acts coming within the purview of this act, ſhall be, and are hereby repealed. *Provided always*, That nothing in this act ſhall be conſtrued to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been veſted, or incurred, prior to the commencement of this act.

LVI. All executions iſſued under any former act, ſhall go on to be ſatisfied, or replevied as ſuch former act directs; and all twelve months or replevy bonds taken, or which ſhall be taken under any former act, ſhall have executions iſſued thereon, in like manner as is directed in caſes of twelve months, or replevy bonds to be taken under this act.

LVII. This act ſhall commence and be in force from and after the paſſing thereof, untill the firſt day of January, one thouſand ſeven hundred and ninety-five.

December the 24th, 1794.

§ I. THE act, intituled, "An act for further continuing and amending the act, intituled, an act for reducing into one, the ſeveral acts concerning executions, and for relief of inſolvent debtors," paſſed in the year one thouſand ſeven hundred and ninety-three, ſhall be, and the ſame is hereby continued in force, until the firſt day of January, one thouſand ſeven hundred and ninety-ſix. (*b*)

II. If any perſon ſhall hereafter be taken or charged in execution in any ſuit commenced or proſecuted in any court of record within this commonwealth, it ſhall be lawful for any judge or juſtice of the ſaid court, or of the court of that county or corporation, to whoſe jail ſuch perſon ſhall be committed, by warrant under his hand and ſeal, to command the jailor or keeper of the ſaid priſon, to bring before any two juſtices of the county or corporation, to whoſe jail he may be committed, at the courthouſe of ſuch county or corporation, on a certain day to be appointed in ſuch warrant, the body or bodies of ſuch perſon or perſons ſo in priſon as aforeſaid, together with a liſt of the ſeveral executions, with which he or ſhe ſhall ſtand charged in the ſaid jail, which warrant ſuch jailor is hereby required to obey, and reaſonable notice thereof ſhall be given to the party or parties, his or their executors, adminiſtrators, or agents, at whoſe ſuit ſuch perſon or perſons ſhall be in execution; and the ſaid juſtices ſhall have full power to adminiſter the oath heretofore required by law to ſuch priſoner or priſoners, and to releaſe him or them in the manner and under the regulations and proviſions preſcribed by the ſaid recited act.

III. If any ſheriff or other officer ſhall fail to deliver to the creditor, his agent or attorney, or other legal repreſentative, on demand, any bond taken for the forthcoming of property, or any twelve months bond taken under the above recited act, or return the ſame to the office from whence the execution iſſued, within ſixty days from the return day of the execution, ſuch ſheriff or other officer, his executors or adminiſtrators ſhall be liable to the ſame fine and penalty for every month of ſuch failure, to be recovered in the ſame manner by the party injured, as is directed by law againſt a ſheriff failing to return an execution.

IV. On a ſale under execution upon twelve months credit, where the amount of ſuch ſale ſhall exceed the principal, intereſt and coſts, if the ſheriff or other officer ſhall fail to

(*a*) 1748 c 10 § 5, 6. (*b*) The act referred to is the act of 1793.

take a twelve month's bond for ſuch exceſs as directed by the twenty-ſixth ſection of the above recited act, ſuch ſheriff or other officer ſo failing, his executors or adminiſtrators, ſhall be liable to the debtor or his legal repreſentatives for the full amount of ſuch exceſs, to be recovered in the ſame manner as is directed by law againſt a ſheriff failing to pay money received on an execution.

V. The obligee or obligees, in a twelve month's replevy bond, ſhall and may have the like remedy thereon, by fieri facias, againſt the executors or adminiſtrators of a deceaſed obligor or obligors, as ſuch obligee or obligees may now have againſt the obligor or obligors themſelves; and that every aſſignee or aſſignees, and the executors or adminiſtrators of every aſſignee of ſuch bond, ſhall be entitled to the like remedy thereon, as by law is given to the executors or adminiſtrators of the firſt aſſignee thereof.

VI. If a replevy or forthcoming bond be at any time quaſhed as faulty, the oblgee or obligees in ſuch bond, beſides his or their remedy againſt the ſheriff, may moreover have execution on his or their judgment, in the ſame manner as if ſuch replevy or forthcoming bond had never been taken.

VII. All perſons who have or ſhall hereafter have any money or tobacco due on a twelve month's replevy bond, or bond taken for the exceſs on a ſale under execution upon twelve months credit, may at their election after lodging the ſame in the clerk's office, with an affidavit as directed by law, proſecute as well the writs of elegit and capias ad ſatisfaciendum thereon, as the writ of fieri facias now given by law; on which writs of elegit and capias ad ſatisfaciendum, the ſame rules and regulations ſhall be obſerved, as are by law eſtabliſhed, when iſſued on judgments. *Provided*, That if any perſon or perſons taken on any ſuch capias ad ſatisfaciendum, after twelve months replevy, ſhall tender to the ſheriff or other officer ſerving the ſame, ſlaves or other perſonal property, to the value of the debt and coſts for which ſuch execution has iſſued, or may hereafter iſſue, the ſheriff or other officer ſhall not take any ſecurity, either to have the goods forthcoming at the day of ſale, or for the payment of the money or tobacco at a future day, but ſhall proceed to ſell the ſame, or ſufficient thereof to raiſe the money or tobacco mentioned in the ſaid execution.

VIII. If any ſheriff or other officer ſhall fail to return any execution whatever or attachment for not performing a decree in chancery, to the office from whence the ſame iſſued, on or before the return day thereof, the executors or adminiſtrators of ſuch ſheriff or other officer, as well as the ſecurities of ſuch ſheriff or other officer, and the executors or adminiſtrators of ſuch ſecurities, ſhall be liable to like fine and penalty, recoverable in the ſame manner as by law is directed againſt a ſheriff himſelf failing to return an execution.

IX. No ſheriff or other officer ſhall return any execution or attachment for not performing a decree in chancery to the office from whence the ſame iſſued, without noting thereon how he hath executed the ſame, unleſs by the expreſs directions in writing of the plaintiff, his agent or attorney; and if any ſheriff or other officer having no ſuch directions, ſhall return any ſuch execution or attachment to the office from whence the ſame iſſued, without noting or endorſing thereon how he hath executed the ſame, ſuch ſheriff or other officer, and his ſecurities, and the executors or adminiſtrators of all and every of them, ſhall in every ſuch caſe be liable to the like fine, and recoverable in the ſame manner as is directed by law againſt a ſheriff failing to return an execution.

X. When any ſheriff or other officer ſhall provide ſuſtenance for the ſupport of ſlaves, horſes or other live ſtock, by virtue of the twentieth ſection of the above recited act, the ſaid ſheriff or other officer, in lieu of the mode thereby provided for obtaining compenſation therefor, ſhall be allowed per day for each ſlave, fifteen cents; for each horſe or mule, twelve cents; and for each head of horned cattle, five cents; which allowance the ſaid ſheriff or other officer ſhall charge to the plaintiff, to be collected in ſame manner as commiſſions a-

riſing on executions, and ſhall be paid by the defendant to the plaintiff, to be taxed in the bill of coſts by the ſaid ſheriff or other officer.

XI. Every ſheriff or coroner (as the caſe may be) ſhall be allowed for taking every bond to the creditor ſixty two cents, and no more; and that every ſheriff or coroner may include his commiſſions in forthcoming and replevy bonds taken on any writ of execution; but he ſhall not demand or receive ſuch commiſſions on forthcoming bonds, unleſs the ſame ſhall be forfeited.

XII. Where any fine or penalty is inflicted on the executors or adminiſtrators of any ſheriff by this or the above recited act, the ſame ſhall be conſidered to affect only the aſſets in their hands as executors or adminiſtrators.

XIII. So much of the thirty-eighth ſection of the ſaid recited act as is contrary hereto, ſhall be, and the ſame is hereby repealed.

XIV. This act ſhall commence and be in force from and after the thirty-firſt day of December, one thouſand ſeven hundred and ninety-four, until the firſt day of January, one thouſand ſeven hundred and ninety-ſix.

December the 17th, 1795.

§ I. THE act, intituled, "An act for further continuing and amending the act, intituled, An act, for reducing into one the ſeveral acts concerning executions, and for the relief of inſolvent debtors," paſſed on the tenth day of December, in the year of our Lord, one thouſand ſeven hundred and ninety-three, and one other act to continue and amend the ſaid act, paſſed on the twenty-fourth day of December, in the year of our Lord one thouſand ſeven hundred and ninety-four, ſhall be, and the ſame are hereby made perpetual, except ſo much thereof, as relates to replevy bonds to be entered into by the debtor or debtors in caſe the goods or other eſtate taken in execution cannot be ſold for three fourths of the value thereof, and except alſo ſo much thereof, as relates to other bonds to be taken on twelve months credit from the purchaſers of the ſaid goods and eſtate, in caſe the ſame ſhall not be replevied by the ſaid debtor or debtors, and the proceedings on the ſaid replevy bonds, and bonds taken from purchaſers as aforeſaid, ſubject to the regulations hereinafter named. *(a)*

II. Every bond to be entered into by the debtor or debtors to replevy, or by purchaſers in caſe of a failure of ſuch replevin, for property taken by virtue of any execution, which ſhall iſſue after the laſt day of December, in the year of our Lord one thouſand ſeven hundred and ninety-five, and before the firſt day of June, in the year of our Lord one thouſand ſeven hundred and ninety-ſix, ſhall be made payable on or before the expiration of nine calendar months from the date thereof. Every ſuch bond to be entered into on any execution which ſhall iſſue between the laſt day of May, in the year of our Lord one thouſand ſeven hundred and ninety-ſix, and the firſt day of January, in the year of our Lord, one thouſand ſeven hundred and ninety-ſeven, ſhall be made payable on or before the expiration of ſix calendar months from the date thereof. And every ſuch bond to be entered into on any execution which ſhall iſſue between the laſt day of December, in the year of our Lord one thouſand ſeven hundred and ninety-ſix, and the firſt day of July, in the year of our Lord one thouſand ſeven hundred and ninety-ſeven, ſhall be made payable on or before the expiration of three calendar months from the date thereof. All which ſaid bonds to be entered into by virtue of this act, ſhall be taken in the ſame manner and form, ſave only as to the time of payment, as the like bonds upon twelve months credit, were directed to be taken in the aforementioned acts: and the like remedies in all reſpects, ſhall be had thereon.

III. After the laſt day of July, in the year of our Lord one thouſand ſeven hundred and

(a) The two preceding laws are here referred to.

ninety-ſeven, ſo much of the aſore-mentioned acts as permits debtors to replevy their goods taken in execution, or in caſe of a failure of ſuch replevin, authoriſes the ſheriff or other officer to ſell the ſaid goods on credit, ſhall ſo far ceaſe, that it ſhall not be lawful for any ſheriff or other officer to receive any ſuch bonds for property taken by virtue of any execution, which ſhall iſſue after the ſaid laſt day of July, in the year of our Lord, one thouſand ſeven hundred and ninety-ſeven, aforeſaid; but the creditor ſhall ſtill be authoriſed to purſue the ſame remedy, for obtaining the money or tobacco which may remain or become due on any ſuch bond, as if every part of the ſaid recited acts had continued in full force.

IV. Where it hath or ſhall hereafter happen, that any aſſignee or aſſignees, their executors or adminiſtrators, hath, or ſhall iſſue an execution, againſt any aſſignor or aſſignors, or their executors or adminiſtrators, on any twelve months bond taken under the aforeſaid acts, and the ſheriff or other officer hath, ſhall or may make the money or tobacco, or any part thereof on ſuch execution, in every ſuch caſe, it ſhall and may be lawful for the court from whoſe office ſuch execution ſhall or may have iſſued, upon the motion of any ſuch aſſignor or aſſignors, their executors or adminiſtrators, to award execution againſt the original obligor or obligors, in ſuch bond, their executors or adminiſtrators, or either of them, or againſt any prior aſſignor or aſſignors of ſaid bond, their executors or adminiſtrators, or either of them, for all and every ſuch ſum of money or tobacco ſo paid, with legal intereſt thereon, from the time the ſame was or ſhall have been paid, and the coſts: *Provided*, ſuch party againſt whom ſuch motion ſhall or may be made, have ten days previous notice thereof; and upon every ſuch execution the ſheriff or other officer ſhall take no ſecurity. And for the better direction of ſuch officer, the clerk ſhall endorſe upon every ſuch execution, "That no ſecurity of any kind is to be taken."

V. In every caſe where any aſſignor or aſſignors of ſuch bond, or ther executors or adminiſtrators, ſhall ſuffer in manner aforeſaid, he or they ſhall have the like remedy againſt any prior aſſignor or aſſignors of ſuch bond, if any ſuch there be, or their legal repreſentatives, or either of them, as well as againſt the original obligor or obligors, and their legal repreſentatives, or either of them.

EXECUTIVE.

November the 16th, 1792.

§ I. IF any combination for diſmembering this ſtate, or eſtabliſhing in any part of it a ſeparate government, ſhould become ſo powerful as to obſtruct the due execution of the laws of this commonwealth, in the ordinary courſe of proceeding within any county or counties thereof, it ſhall be lawful for the governor, with advice of council, to call out the militia of the ſtate to ſuppreſs ſuch combination, and to employ them in the ſame manner as he may do by law, in caſes of invaſion or inſurrection.

II. It ſhall and may be lawful for the governor, with the advice of the council of ſtate, to apprehend and ſecure, or cauſe to be apprehended and ſecured, or compelled to depart this commonwealth, all ſuſpicious perſons, being the ſubjects of any foreign power or ſtate, who ſhall have made a declaration of war, or actually commenced hoſtilities againſt the ſaid ſtates, or from whom the Preſident of the United States ſhall apprehend hoſtile deſigns againſt the ſaid ſtates; provided information thereof ſhall have been previouſly received by the executive from him. And in all ſuch caſes the governor, with the advice of the council of ſtate, ſhall, and he is hereby empowered, to ſend for the perſon and papers of any foreigner within this ſtate, in order to obtain ſuch information as he may judge neceſſary. *(a)*

P

(a) 1785 c 13

III. All ſheriffs and jailors ſhall receive ſuch ſuſpicious perſons, whom, by warrant from the governor, they ſhall be commanded to receive, and them in their priſons or cuſtody to detain, or tranſport out of the commonwealth, as by ſuch warrant they may be commanded. And all others, the good citizens of this commonwealth, ſhall be aiding and aſſiſting in apprehending, ſecuring, or tranſporting any ſuch ſuſpicious perſon, when commanded by warrant or proclamation of the governor, or required by the ſheriff or jailor to whoſe cuſtody ſuch ſuſpicious perſons may have been committed. Every perſon acting under the authority aforeſaid, ſhall be indemnified from all ſuits to be commenced or proſecuted for any action or thing done by virtue thereof, and may plead the general iſſue and give this act in evidence. Saving always to the merchants of any foreign ſtate, betwixt whom and the United States of America, war ſhall have ariſen, and to their families, agents and ſervants, found in this commonwealth at the beginning of the war, the privileges allowed by law. *(a)*

IV. If the governor and preſident of the privy council ſhall die or otherwiſe become unable to perform his duty, in the receſs of the general aſſembly, the privy councillor whoſe name ſtands next in the liſt of their appoinments, ſhall officiate as lieutenant-governor, until the vacancy be ſupplied, or the diſability ceaſe. *(b)*

V. And in the abſence of the governor, ſuch intended abſence having been previouſly notified to them by him, and entered on their journals, or in the like abſence of the preſident, and upon the like notification, if any buſineſs to be tranſacted at the council board, neceſſarily require diſpatch before he can attend it, the council may proceed without him; and in either caſe the act ſhall be as valid as if he had been preſent. The governor and council ſhall have power to appoint from time to time as they ſhall be wanting, a drawing clerk, a copying clerk, and a clerk of foreign correſpondence, who ſhall each of them take an oath, to be adminiſtered by any member of the board, to keep ſecret all ſuch matters as they ſhall direct them to keep ſecret; which clerks ſhall be removed at their will. *(b)*

VI. It ſhall and may be lawful for the governor, with the advice of council, to cauſe as many men (not exceeding twenty-five) with proper officers to be enliſted as guards for public ſervice, as he, the ſaid governor, with advice of council, may deem neceſſary, and may retain the ſame in ſervice ſo long as the public exigencies may require.

VII. If it ſhall happen that there is not a ſufficient number of juſtices for holding a court in any county, either by deaths, refuſal to act, or removal out of the county, the governor, for the time being, with advice of council, ſhall have full power to iſſue a commiſſion or commiſſions of the peace for the appointment of any number of magiſtrates in ſuch county, ſo circumſtanced, as ſhall be judged neceſſary for carrying on the buſineſs of the ſame.

VIII. It ſhall be the duty of the executive to ſend copies of the laws of this commonwealth by expreſs, or otherwiſe, as they ſhall think beſt, to the clerk of every county and corporation court within the ſame, for the uſe of each magiſtrate, clerk, ſtate's attorney and ſheriff, in the county or corporation, as ſoon as the ſaid laws are printed; the expence whereof ſhall be defrayed out of the contingent fund.

IX. It ſhall not hereafter be lawful for the executive to remit any fine or amercement aſſeſſed by a jury.

The repealing clauſe is, as in the appendix No. 16.

December the 26th, 1794.

WHEN any application ſhall be made to the executive by any ſheriff or other collector of the public revenue, or their ſecurities, or the repreſentatives of either, for the remiſſion of damages or fines incurred by them in favor of the commonwealth, the

(a) 1785 c 15 *(b)* 1785 c 56

executive ſhall be authoriſed to take into conſideration the particular circumſtances of each caſe, and may remit the whole or part of ſuch damages or fines, as to them ſhall appear juſt and reaſonable. *Provided*, That before any damages, or any part thereof ſhall be remitted, that the applicant ſhall produce a certificate from the auditor of public accounts, that the principal, intereſt and coſts have been paid into the public treaſury.

December the 26th, 1795.

WHEREAS a well trained militia is the only natural and ſafe defence of a free ſtate, and in order to carry this principle into effect, it is eſſentiallv expedient that the militia of this commonwealth ſhould be armed in ſuch manner as to anſwer the end of its inſtitution:

§ I. The governor, with the advice of the privy council, ſhall, and he is hereby authoriſed and required, annually to procure for the uſe and defence of this commonwealth, four thouſand ſtand of ſmall arms and accoutrements, to be diſtributed amongſt the militia when called into actual ſervice, in ſuch manner as the executive may direct.

II. The executive ſhall be authoriſed to furniſh each company of artillery with one field piece in good order, if there be a ſufficient number of field pieces belonging to this commonwealth, and that the commanding officer of each company ſhall be reſponſible for the preſervation and return of the field pieces.

EXECUTORS. *See Wills, Executors, Adminiſtrators, and Inteſtates.*

EXTORTION. *See Bribery and Extortion.*

FALSE NEWS. *See Divulgers of Falſe News.*

FEES.

December the 19th, 1792.

§ I. IT ſhall and may be lawful for the clerk of the council, the clerk of the houſe of delegates, the regiſter, the clerks of the general court, high court of chancery, court of appeals, diſtrict courts, clerks of corporation courts, and all county court clerks, ſheriffs, coroners, conſtables, and ſurveyors, reſpectively, to demand, receive and take the ſeveral fees herein after mentioned and allowed, for any buſineſs by them reſpectively done, by virtue of their ſeveral offices, and no other fees whatſoever: That is to ſay—*(a)*

To the Clerk of the Council,

	Dols.	Cts.
For every teſtimonial, - - -	1	67
To the Clerk of the Houſe of Delegates,		
For a copy of an act of aſſembly, if contained in one ſheet, -	1	0
And for every ſheet after the firſt, - -	0	75
To the Regiſter,		
For iſſuing a warrant of ſurvey, and recording the ſame, -	0	63
For every warrant iſſued in exchange for another warrant, or where lands claimed under a former warrant, ſhall be recovered on a caveat, and recording the ſame,	0	63

(a) 1745 but altered by ſubſequent regulations.

	Dols.	Cts.
For receiving a plat and certificate, and giving a receipt for the ſame,	0	10
For iſſuing and recording a grant thereupon, if the quantity therein contained exceed not four hundred acres,	1	26
For every hundred acres, exceeding that of four hundred,	0	10
For recording a plat and certificate of ſurvey, if the quantity does not exceed four hundred acres,	0	42
For every hundred acres exceeding that quantity,	0	10
For entering a caveat, or for a copy thereof,	0	42
For a copy of any grant or patent of land,	0	63
For a ſearch for any thing, or for reading the ſame, if a copy be not required,	0	21
For keeping a regular account of warrants, examined and cancelled, to be paid by the treaſurer, on the auditor's warrant, for each wartant, *(a)*	0	6
To the Surveyor,		
For every ſurvey by him plainly bounded as the law directs, and for a plat of ſuch ſurvey, after the delivery of ſuch plat, where the ſurvey ſhall not exceed four hundred acres of land	5	25
For every hundred acres contained in one ſurvey above four hundred,	0	25
For ſurveying a lot in town,	1	0
And where a ſurveyor ſhall be ſtopped or hindered from finiſhing a ſurvey by him begun, to be paid by the party who required the ſame to be ſurveyed,	2	62
For running a dividing line,	2	10
For ſurveying an acre of land for a mill,	1	5
For every ſurvey of land formerly patented, and which ſhall be required to be ſurveyed, and for a plat thereof delivered as aforeſaid, the ſame fee as for land not before ſurveyed,		
And where a ſurvey ſhall be made of any lands which are to be added to other lands, in an incluſive patent, the ſurveyor ſhall not be paid a ſecond fee for the land firſt ſurveyed, but ſhall only receive what the ſurvey of the additional land ſhall amount to.		
And where any ſurveys have been actually made of ſeveral parcels of land adjoining, and ſeveral plats delivered, if the party ſhall deſire one incluſive plat thereof, the ſurveyor ſhall make out ſuch plat for	1	5
For running a dividing line between any county or pariſh, to be paid by ſuch reſpective counties or pariſhes, in proportion to the number of tithables, if ten miles or under,	10	50
And for every mile above ten,	0	30
For receiving a warrant of ſurvey, and giving a receipt therefor,	0	17
For recording a certificate from the commiſſioners of any diſtrict of a claim to land allowed by them, to be paid by the claimant,	0	17
For making an entry for land, or for a copy thereof,	0	17
For a copy of a plat of land, or of a certificate of ſurvey, *(b)*	0	25

II. Where any perſon ſhall employ a ſurveyor, and ſhall have received a plat of land ſurveyed, and afterwards ſhall aſſign the plat of land to any other, either before or after obtaining a patent for the ſame, if ſuch perſon for whom the land was firſt ſurveyed, ſhall not have paid for the ſaid ſurvey, it ſhall and may be lawful for the ſheriff or other officer of the county or corporation, where ſuch aſſignee ſhall reſide, at the inſtance of ſuch ſurveyor, to make diſtreſs upon the ſlaves, goods and chattels of ſuch aſſignee, in like manner as is herein after provided for ſurveyors or other officers fees refuſed or delayed to be paid. *(c)*

(a) May 1780 c 7 § 1 *(b)* Oct. 1783 c 32 § 3 *(c)* 1745 c 1 § 8

To the Clerk of the Court of Appeals.

	Dols.	Cts.
The ſame fees with thoſe of the high court of chancery and general court, for ſimilar ſervices.		

To the Clerk of the High Court of Chancery,

For filing a bill, anſwer, replication, or other pleadings, each -	0	26
For a copy thereof, for every twenty words, - -	0	2
For entering every decree, - - -	0	18
For drawing up every decree at large, entering the ſubſtance of the bill, anſwer, and other pleadings, the ſubſtance of the evidence and the decree thereupon, for every twenty words,	0	2
For filing the depoſitions in every cauſe in behalf of each party, -	0	26
For a copy of the depoſitions, for every twenty words, -	0	2

To the Clerk of the General Court,

For a copy of a warrant and inquiſition of eſcheat, - -	1	92
Or of an inquiſition of eſcheat, - - -	0	83
For the probation of any teſtament and recording the ſame, for entering the orders for appraiſing the eſtate, recording the inventory, writing and ſealing the probat, or any other matter concerning the ſame, or for a commiſſion of adminiſtration of the goods of any perſon dying inteſtate, for entering the order or orders for appraiſing the eſtate, recording the inventory, or for any other matter concerning the ſame where the appraiſement doth not amount to above three hundred dollars,	3	50
Or where the appraiſement exceeds three hundred dollars, and is under fifteen hundred dollars,	5	0
Or where the appraiſement exceeds fifteen hundred dollars, or there is no appraiſement,	7	0
For a copy of a probat, or commiſſion of adminiſtration, -	0	70
For recording the memorial of each bargain, ſale, mortgage, or other conveyance, marriage ſettlement, or deed of truſt, there ſhall be paid by the perſon to whom the ſame ſhall be made,	0	18
For recording the certificate of a probat, or adminiſtration,	0	18
For a copy of a will, or inventory, -	0	70
And if the original is contained in more ſheets than one, for a copy of every ſuch ſheet,	0	52
For a copy of an account, - -	0	35
For recording of a deed or deeds for the conveying or ſettling any lands or tenements only, or together with ſlaves or perſonal eſtate, or any way concerning the ſame, acknowledged or proved in the general court,	2	62
For a copy of ſuch deed or deeds, with the endorſements thereon, and for a certificate of the acknowledgment or proof, and recording,	1	57
For iſſuing a commiſſion to take the acknowledgment and privy examination of a feme covert, and recording it with the return of the commiſſioners,	0	87
For a copy thereof, - - -	0	52
For recording a deed concerning ſlaves, or any perſonal matter only,	1	22
For a copy thereof with a certificate of the acknowledgment or proof, and recording,	0	70
Provided however, that for a deed of gift for ſlaves only, or for a copy thereof, there ſhall be allowed only	0	35
For recording a letter of attorney, acknowledged and proved in the general court, and every thing relating thereto,	1	22

	Dols.	Cts.
For a copy thereof,	0	70
For recording a bond with condition other than for performance of covenants in deeds of conveyance or settlement of lands,	0	70
For a copy of a bond with condition, *(a)*	0	35
In Actions and other Suits.		
For every writ of error, supersedeas, or scire facias,	0	43
For taking bond on issuing a writ of error or supersedeas,	0	43
For every other writ in any action or suit whatsoever,	0	35
For entering the sheriff's return, and entering the bail by him returned in the rule-book,	0	35
For entering special bail,	0	35
For entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	0	18
For entering security for costs for persons out of the country,	0	35
For filing a declaration, and every plea or demurrer in any cause to the making up of the issue, and for filing errors upon appeals, writs of error, or supersedeas,	0	35
For a copy of every declaration, plea or demurrer, or of errors,	0	35
For every rule entered in the rule book,	0	35
For a copy of every rule,	0	18
For every order in court before trial,	0	18
For a copy of the same,	0	18
For filing papers for each party in any action or suit,	0	26
For docketing every cause on the docket (to be charged but once)	0	18
For every trial, swearing the jury and witnesses, and recording a general verdict,	0	87
For administering an oath or affirmation in court, except witnesses to a jury,	0	18
For every trial where there is a special verdict, swearing the witnesses and jury and recording such verdict,	1	30
And where there is no jury, but a case agreed,	0	43
For swearing witnesses for each party in every cause where there is no jury,	0	26
For a copy of a case agreed, or notes of a special verdict,	0	43
For entering every order made in court, after verdict, or demurrer joined,	0	18
For entering every continuance on the court docket,	0	18
For entering every judgment,	0	18
For making a complete record of every cause, inserting a case agreed or special verdict at large from the notes, and all deeds and other evidences at large, for every twenty words,	0	2
For a copy thereof or any part thereof, the same.		
For a recognizance in court,	0	35
For filing a return of a habeas corpus,	0	26
For filing the record on a writ of error,	0	26
For a copy of such record, for every twenty words,	0	2
To the Clerk of the General Court or High Court of Chancery, [As the case may be.]		
For taking a bond upon issuing injunctions,	0	43
For every dedimus potestatem,	0	35
For recording the report of auditors, when it is desired,	0	70
For making a complete record of every cause, for every twenty words,	0	2
For filing the return of a certiorari,	0	26

(a) 1745 c 1—1784 c 60—1758 c 1.

	Dols.	Cts.
For taxing the coſts in any action or ſuit, and a copy thereof, -	0	35
For recording any thing not herein particularly mentioned, or for a copy thereof, for every twenty words,	0	2
For a ſearch for any thing, if above a year's ſtanding, or reading the ſame, or any part thereof, if required, if a copy be not taken,	0	18
For every order to a witneſs for attendance, (to be charged to the party againſt whom the order goes)	0	18
To the Clerks of the Diſtrict Courts,		
For iſſuing a ſummons on a petition for lapſed lands, -	0	87
For every order thereon, - - -	0	26
In all other caſes, the ſame fees with thoſe of the county courts, for ſimilar ſervices; and for all other ſervices the ſame as thoſe of the clerk of the general court. *(a)*		
To the Clerk of a Diſtrict Court, or the Clerk of the High Court of Chancery, [As the caſe may be.]		
For filing the record upon an appeal, or ſuperſedeas from a county court, or any inferior court,	0	26
For a copy of ſuch record, for every twenty words, *(b)* -	0	2
To the Clerks of the County and Corporation Courts,		
For every writ in the nature of an ad quod damnum, (to be paid upon iſſuing ſuch writ)	0	83
For recording the ſame with the inquiſition thereupon, (to be paid before inquiſition recorded,	1	92
For a copy of ſuch writ and inquiſition (to be paid down) -	0	83
For taking a bond upon iſſuing injunctions in chancery, -	0	35
For recording deeds of leaſe and releaſe, for conveying or ſettling of lands only, or together with ſlaves and perſonal eſtate, bond to perform covenants, certificate of the proof or acknowledgment, as the caſe is, and all matters relating thereto,	2	62
For a copy thereof, - - -	0	95
For recording every deed of feoffment, or bargain and ſale, or other ſingle deed for conveying or ſettling lands and tenements only, or together with ſlaves and perſonal eſtate, bond to perform covenants, certificate of the proof or acknowledgment, as the caſe is, and all matters relating thereto,	1	75
For a copy thereof, - - -	0	70
For iſſuing and recording a commiſſion to take the acknowledgment and privy examination of a feme covert, with the certificate of the commiſſioners, if ſuch commiſſion be required,	0	70
For a copy thereof, - - -	0	35
For recording a patent, - - -	0	87
For a copy thereof, - - -	0	43
For recording a deed concerning ſlaves, or any perſonal matter or thing only, with certificate of its proof or acknowledgment,	0	70
For a copy thereof, - - -	0	52
Provided however, That for a deed of gift for ſlaves only, or for a copy thereof, there ſhall be allowed only,	0	35
For recording a letter of attorney, - -	0	52
For a certificate of the proof or acknowledgment thereof, -	0	18

(a) 1788 c 67 § 21 *(b)* 1745 c 1

	Dols.	Cts.
For a copy of a letter of attorney with ſuch certificate,	0	43
For recording a bond with condition, other than of performance of covenants in deeds of conveyance, or ſettlement of lands,	0	35
For a copy of a bond, with condition, other than an appeal bond, the ſame,		
For a copy of any other obligation or promiſſory note,	0	18
For the probation of any will or teſtament, and recording the ſame, entering the order or orders for appraiſing the eſtate, and for any other matter concerning the ſame, where the will ſhall be contained in one ſheet,	0	70
And if the will is contained in more than one ſheet, for every ſuch ſheet,	0	35
For a commiſſion of adminiſtration of the goods of any perſon dying inteſtate, for entering the order or orders for appraiſement, and for any other matters concerning the ſame,	0	70
For recording an inventory, where the appraiſement doth not amount to more than thirty dollars,	0	18
Where the appraiſement exceeds that value, and is under one hundred and fifty dollars,	0	87
And where it ſhall exceed one hundred and fifty dollars, and is under three hundred dollars,	1	75
And where it ſhall exceed three hundred dollars, or there is no appraiſement,	4	37
For a copy of a will or inventory, if the original is contained in one ſheet,	0	52
If the original is contained in more ſheets than one, for a copy of every ſuch ſheet beſides the firſt,	0	35
For recording the age of a ſervant or ſlave, adjudged in court,	0	18
For a certificate thereof if required,	0	14
For attending a court for examination of criminals and trial of ſlaves, if the court is held for that purpoſe (to be paid by the public)	3	50
For a copy of a liſt of tithables, in his precinct,	0	35
For the whole fee for an ordinary licenſe and bond,	0	87
For a copy of the rates of liquors,	0	26
For a marriage licenſe, certificate, and bond,	0	87
For every ſearch for any thing above a year's ſtanding if a copy be not taken,	0	8
For reading any thing if a copy be not required, *(a)*	0	8

In Actions and other Suits.

For every writ, other than ſuch as are herein particularly mentioned,	0	18
For a copy of ſuch writ,	0	8
For every writ of execution, or ſcire facias,	0	26
For a copy thereof,	0	14
For recording the return thereof,	0	14
For a writ of atatchment, in any action,	0	26
For recording the return thereof,	0	26
For an attachment granted by a juſtice of the peace, returnable to the court, and recording the return and putting the ſame on the docket,	0	35
For every ſummons to ſummon a garniſhee on ſuch attachment,	0	18
For filing every bail bond, or entering the bail returned,	0	18
For docketing every cauſe, except by petition (to be charged but once)	0	8
For a copy of the return of any writ,	0	5
For entering ſpecial bail,	0	18
For entering ſecurity for coſts for perſons out of the country,	0	18

(a) 1658 c 1 § 6—1745 c 1 § 2—1787 c 44

	Dols.	Cts.
For entering the appearance of the defendant or defendants, where there is no attorney, in any ſuit, except by petition,	0	8
For entering one or more attornies for each party,	0	8
For every petition, declaration, or other pleadings, except in ſuits by petition, for debt, detinue, aſſumſit, or trover,	0	18
For a copy of any declaration, ſpecial plea or demurrer,	0	18
For a copy of a plea, if the general iſſue,	0	5
For every trial, ſwearing the jury and witneſſes, filing all papers, and recording general verdict,	0	70
For every trial where there is a ſpecial verdict or caſe agreed, and recording the ſame,	1	13
For ſwearing the witneſſes in every other cauſe, where there is no jury or caſe agreed except by petition,	0	18
For filing the papers of each party in every cauſe, except by petition, and where there is a jury or caſe agreed,	0	18
For a copy of a ſpecial verdict, or caſe agreed, and every thing therein ſet forth or for making up a full and complete record, for every thirty words,	0	2
For entering every judgment, or for a copy thereof,	0	18
For filing a bill, anſwer, replication, and other pleadings in chancery, for each,	0	18
For a copy thereof, for every thirty words,	0	2
For a commiſſion to examine witneſſes,	0	43
For attending and writing depoſitions taken againſt inſpectors before juſtices of the peace,	1	75
For entering every decree in chancery,	0	26
For filing the depoſitions in any ſuit for each party,	0	8
For every depoſition taken in court,	0	18
For a copy of a depoſition,	0	18
For adminiſtering an oath in court, not relating to the trial of any cauſe there depending, and certifying the ſame,	0	18
For every recognizance in court,	0	18
For entering the order or orders in any cauſe in one court,	0	26
For entering every order for attendance of witneſſes,	0	18
For a copy of any order,	0	18
For recording the report of a jury in the county, ſurveyor, auditor or viewers,	0	35
For a copy thereof,	0	35
For taxing coſts to any judgment or decree, where coſts are recovered, or for a copy of a bill of coſts, if required,	0	20
For a copy of an account,	0	18
For entering an appeal, and taking bond to proſecute it,	0	35
For a copy of the bond,	0	18
For returning an appeal and ſecurity to the office of the court of chancery, or a diſtrict court, (as the caſe may be)	0	52
For returning a writ of error, ſuperſedeas, certiorari, or habeas corpus,	0	35
For a copy of the proceedings of the cauſe, wherein the appeal is granted, for every thirty words,	0	2
For recording the acknowledgment of ſatisfaction of a judgment,	0	18
For entering each order for a witneſs's attendance, (to be charged to the party in whoſe behalf the witneſs is ſummoned, and taxed in the bill of coſts, if ſuch party recover)	0	18
For a copy thereof, to be taxed and charged in like manner	0	18

	Dols.	Cts.
For an attachment thereon, to be charged to the party againſt whom the attachment ſhall be iſſued,	0	18
For the whole fee chargeable for every petition for debt, detinue, aſſumpſit, or trover, and all the proceedings therein, including a copy of the judgment, and taxing coſts, if required, except the reſpective fees for ſummoning witneſſes, entering attornies, for every order for continuance, and for iſſuing execution, where any of thoſe matters happen,	0	87
For entering an attorney in ſuch petitions, to be paid by the party by whom ſuch attorney ſhall be employed, and not to be taxed in the bill of coſts,	0	8
For a ſummons for ſeveral witneſſes living in one county, if ſummonſes for all be taken out at one time,	0	18
For recording any thing not herein particularly mentioned, or for a copy thereof, for every thirty words,	0	2
For the acknowledgment and proof of any deed in the county court, and for certifying the ſame to be recorded in the general court,	0	52

Which ſaid ſeveral fees ſhall be charged to the party at whoſe inſtance the buſineſs ſhall be performed, except where it is otherwiſe directed.

III. The commiſſioner or commiſſioners of the high court of chancery may iſſue their tickets for the ſums allowed by the ſaid court, for ſervices performed by them under the orders of the ſaid court, and deliver them to the reſpective ſheriffs, at the ſame time the clerk of the ſaid court is directed by law to deliver his tickets; and the ſeveral ſheriffs ſhall collect and account for them in the ſame manner, and under the like penalties, and ſhall have the ſame allowance for collecting and for inſolvencies, as are preſcribed in the caſe of the clerk of the ſaid high court of chancery. *(a)*

IV. If any plaintiff or defendant, or his or her attorney, ſhall take out copies of his or her own declaration or pleadings, or of his or her own papers in any cauſe, or of any common order made in ſuch caſe, the charge of ſuch copies ſhall not be allowed in the bill of coſts, although ſuch party recover; and where more attornies than one ſhall be employed in any cauſe on one ſide, if ſuch attornies take out more than one copy of any thing neceſſarily relating to the ſuit, yet no more than one copy ſhall be allowed in the bill of coſts; neither ſhall the clerk tax any fee in the bill of coſts for entering more than one attorney, although coſts ſhall be adjudged againſt the adverſe party. *(b)*

	Dols.	Cts.
For all public ſervices of the clerk, viz. entering and iſſuing copies of orders for appointing ſurveyors of high ways, appointing conſtables, grand juries, taking a liſt of tithables, entering guardians accounts, and all matters relating thereto; binding out poor orphans, and appointing guardians, entering the levy and copies thereof, and of the liſts of tithables for the collector, and for entering and iſſuing the orders, except againſt guardians, where they ſhall ſtand out in contempt (to be charged to ſuch guardian) and iſſuing the orders for recommending ſheriffs and juſtices, and for proceſſioning, and all other public ſervices for which no particular fee is allowed, to be levied annually by the juſtices of the county,	25	0

V. And where a motion or ſuit ſhall be inſtituted againſt any perſon or perſons for money due to the public, in the name of, or by the perſon authoriſed by law ſo to do, and judgment ſhall be recovered againſt him, her, or them, the clerk of the court wherein ſuch motion or ſuit ſhall be inſtituted, ſhall and is hereby required to charge all the fees accruing thereon, to the perſon or perſons againſt whom ſuch judgment ſhall be obtained.

(a) 1789 c 35 *(b)* 1745 c 1

VI. No county court clerk ſhall charge any fee for making up a complete record, unleſs it be in cauſes where the title or bounds of lands are determined, or where he is to tranſmit the tranſcript of the record of any cauſe to the office of a ſuperior court upon appeals, writs of error, ſuperſedeas, habeas corpus, or certiorari.

VII. And to the end all perſons chargeable with any of the fees aforeſaid, may certainly know for what the ſame are charged, *Be it enacted*, That none of the fees herein before mentioned, ſhall be payable by any perſon whatſoever, until there ſhall be produced, or ready to be produced unto the perſon owing or chargeable with the ſame, a bill or account in writing containing the particulars of ſuch fees, ſigned by the clerk or officer to whom ſuch fees ſhall be due, or by whom the ſame ſhall be chargeable reſpectively; in which ſaid bill or account, ſhall be expreſſed in words at length, and in the ſame manner as the fees aforeſaid are allowed by this act, every fee for which any money or tobacco is or ſhall be demanded.

To the Sheriff or Serjeant.
(As the caſe may be)

	Dols.	Cts.
For an arreſt, bond, and return,	0	63
For returning a capias, non eſt inventus,	0	21
For ſerving a ſcire facias,	0	30
For ſerving any perſon with an order of court, and making return thereof,	0	30
For pillorying any perſon,	0	42
For putting into the ſtocks,	0	21
For ducking any perſon,	0	42
For putting in priſon and releaſement,	0	42
For ſerving a ſubpœna in chancery,	0	30
For ſerving a ſummons upon a petition for debt, detinue, aſſumſit, or trover,	0	30
For ſerving a ſubpœna for a witneſs in any cauſe in court, except ſummoned in court,	0	41
For ſummoning an appraiſer, auditor, viewer, or witneſs to any deed, will, or writing, if required to be ſummoned, but not elſe,	0	21
For ſummoning and impannelling a jury, in every cauſe wherein a jury ſhall be ſworn,	1	5
For coming to and attending the diſtrict court with the venire, and return of the venire facias, the ſame as is allowed to a venire man, (to be paid by the public) and for attending the diſtrict with ſtolen goods where there is no venire, the ſame,		
For ſummoning the juſtices of the county and attending a court for the examination of a criminal (to be paid by the public)	4	20
For removing of every criminal from the county jail to a diſtrict jail, for every mile,	0	10
For removing a debtor by habeas corpus from the county jail to a diſtrict jail, for every mile,	0	4
For executing every condemned perſon, and all fees incident (to be paid as aforeſaid)	5	25
For ſummoning a jury upon any inquiſition, ſurvey, writ of dower, or partition, if the jury appear,	3	15
And if the jury do not appear,	1	57
For making a return of a writ of dower, partition, or in the nature of an ad quod damnum,	1	5
For every day's attendance upon a jury in the country after they are ſworn, or attendance upon a ſurveyor, when ordered by the court,	1	5

	Dols.	Cts.
For ſerving a writ of habere facias ſeiſinam, or habere facias poſſeſſionem,	1	5
For ſerving an attachment upon the body, - -	0	63
For ſerving a writ of diſtringas iſſuing from a judgment in detinue when the ſpecific thing ſhall be taken,	1	5
For ſerving a declaration in ejectment, if againſt one tenant,	0	63
And if againſt more tenants than one, for ſerving the declaration on every other tenant,	0	30
For whipping of a ſervant, to be paid by the owner, and repaid by the ſervant,	0	42
For whipping a free perſon by order of the court (to be paid by ſuch perſon) the ſame,		
For whipping a ſlave by order of court, to be paid by the county, and repaid by the public,	0	42
For taking a bond or bonds to the creditor under the act, intituled, "An act "for reducing into one, the ſeveral acts concerning executions, and for "the relief of inſolvent debtors,"	0	63
For proceeding to ſell on an execution on behalf of the commonwealth, or of any individual, if the property be actually ſold, or the debt paid, the commiſſion of five per centum on the firſt three hundred dollars, or ten thouſand pounds of tobacco, and two per centum on all ſums above that, and one half of ſuch commiſſion where he ſhall have proceeded to ſale, and the defendant ſhall have replevied, and no other commiſſion, fee, or reward, ſhall be allowed upon any execution, except for the expence of removing and keeping the property taken,		
For ſerving an attachment, or for making diſtreſs upon the goods exceeding ten dollars, if ſold, the ſame fee as for ſerving an execution, where the goods do not exceed that value, or are not ſold,	0	63
For every garniſhee ſummoned on ſuch attachment, -	0	21
For executing any writ of diſtringas or attachment on a decree in chancery, the ſame fee or commiſſions upon the amount of the value of the goods and chattels recovered, or money mentioned in ſuch decree as is by law allowed for ſerving any other execution,		
For ſerving and returning a general or diſtrict court writ, ſummons or order where the ſame is not comprehended in any of the foregoing articles,	0	63
For making a proclamation as the law directs, in proving of wills or proceeding to outlawry,	0	42
For ſelling a ſervant at public outcry by order of court, and all fees incident,	0	42
For keeping and providing for a debtor in jail, each day, -	0	21
For ſerving a juſtice's warrant, - -	0	21
For ſummoning a witneſs before a juſtice, -	0	10
For all public ſervices of the ſheriff, to wit, attending the courts of claims, impannelling grand juries, publiſhing writs for electing delegates or ſenators, and attendance, ſerving all public orders of court (except againſt guardians where they ſhall ſtand out in contempt, to be charged to ſuch guardian) and all other public and county ſervices, to be levied annually by the juſtices on the county, *(a)*	25	0

VIII. And when any perſon or perſons preſented by the grand jury, or proſecuted by the overſeers of the poor, ſhall be diſcharged of ſuch preſentment or proſecution, the clerk, attorney for the commonwealth, and ſheriff, ſhall be entitled to no fees for the ſame but

(a) 1788 c 77 § 4—1791 c 3 § 7.

it ſhall be deemed to be included in the public ſervices; but if the party or parties ſo preſented or proſecuted ſhall be convict, then in ſuch caſe the clerk ſhall tax all ſuch fees againſt ſuch party or parties. *(a)*

To the Coroner,

	Dols.	Cts.
For taking an inquiſition on a dead body, (to be paid out of the eſtate of the deceaſed) if the ſame be ſufficient, if not by the county,	2	80
For all other buſineſs done by him, the ſame fees as are allowed the ſheriff for the ſame ſervices.		

To the Conſtable,

For ſerving a warrant,	0	21
For ſummoning a witneſs,	0	10
For ſummoning a coroner's jury and witneſſes,	1	5
For putting into the ſtocks,	0	21
For whipping a ſervant, (to be paid by the owner, and repaid by the ſervant)	0	21
For ſerving an execution or attachment, returnable before a juſtice,	0	21
For ſerving an attachment, returnable to the county court againſt the eſtate of a debtor removing his effects out of the county,	0	63
For whipping a ſlave, (to be paid by the overſeer, if the ſlave is under an overſeer, if not, by the maſter)	0	21
For removing any perſon ſuſpected to become chargeable to the county, (to be paid by the overſeers of the poor) for every mile,	0	4
The ſame for returning.		

IX. The clerks of the general court, high court of chancery, court of appeals, and diſtrict courts, ſhall cauſe to be ſet up in ſome public place in their offices, and there conſtantly kept, a fair table of their fees herein before mentioned, on pain of forfeiting forty dollars, for every court day the ſame ſhall be miſſing through their neglect; and the clerk of every county or corporation court, ſhall in like manner ſet up a fair table of all other fees, herein before mentioned, in the courthouſe of his county, to be there conſtantly kept, on pain of forfeiting twenty dollars, for every court day the ſame ſhall be miſſing through his neglect; and the ſurveyor of every county ſhall alſo cauſe to be ſet up in ſome public place, in his office, and there conſtantly kept, a fair table of his fees, herein before mentioned, on pain of forfeiting three hundred dollars. All which penalties ſhall be to the perſon or perſons, who ſhall inform or ſue for the ſame, and ſhall and may be recovered in any court of record within this commonwealth, by action of debt or information. *(b)*

X. If any officer hereafter ſhall claim, charge, demand, exact, or take any more, or greater fees for any writing, or other buſineſs by him done, within the purview of this act, than herein before ſet down and aſcertained, or if any officer whatever ſhall charge or demand, and take any of the fees herein before mentioned, where the buſineſs for which ſuch fees are chargeable, ſhall not have been actually done and performed, (to be proved by the fee book of ſuch officer, upon his corporal oath) ſuch officer for every ſuch offence ſhall forfeit and pay to the party injured, beſides ſuch fee or fees, ſix dollars for every particular article or fee ſo unjuſtly charged or demanded or taken; to be recovered with coſts, in any court of record in this commonwealth, by action of debt or information: *Provided*, the ſame be ſued for within twelve months after the offence ſhall be committed. *(c)*

XI. And for the better collecting the ſaid fees, *Be it enacted*, That the ſurveyor of every county ſhall, annually, before the twentieth day of January, and the clerk of every diſtrict, county and corporation court, reſpectively, ſhall, annually, before the firſt day of March, deliver or cauſe to be delivered, to the ſheriff of every county in this ſtate, and

(a) 1745 c 1 *(b)* 1745 c 1 § 9—Oct. 1783 c 32 § 5 *(c)* 1745 c 1 § 10

to the ſerjeants of every corporation, reſpectively, their accounts of fees due from any perſon or perſons reſiding therein, which ſhall be ſigned by the clerks or ſurveyors reſpectively.

XII. And the ſaid ſheriffs and ſerjeants are hereby required and empowered to receive ſuch accounts, and to collect, levy and receive the ſeveral ſums of money therein charged of the perſons chargeable therewith; and if ſuch perſon or perſons, after the ſaid fees ſhall be demanded, ſhall refuſe or delay to pay the ſame, till after the tenth day of April, in every year, the ſheriff of that county, or ſerjeant of that corporation wherein ſuch perſon reſides, or of the county in which ſuch fees became due, ſhall have full power, and are hereby required to make diſtreſs of the ſlaves, or goods and chattels of the party ſo refuſing or delaying payment, either in that county or corporation where ſuch perſon inhabits, or where the ſame fees became due. And the ſheriff of any county, or ſerjeant of a corporation, for all fees which ſhall remain due and unpaid after the ſaid tenth day of April in any year, either to themſelves or the ſheriffs or ſerjeants of another county or corporation, which ſhall be put into his hands to collect as aforeſaid, is hereby authoriſed and empowered, to make diſtreſs and ſale of the goods and chattels of the party refuſing or delaying payment, in the ſame manner as for other fees due to any of the officers herein before mentioned; but no action, ſuit, petition or warrant from a juſtice, ſhall be had or maintained for clerks or ſurveyors fees, unleſs the ſheriff or ſerjeant ſhall return, that the perſon owing or chargeable with ſuch fees hath not ſufficient within his bailiwick whereon to make diſtreſs, except where the clerk or other officer, as aforeſaid, ſhall have loſt his fee book by fire or other misfortune, ſo that he be hindered from putting his fees into the ſheriffs hands to collect; and in that caſe any ſuit or warrant may be had and maintained for the recovery thereof. And if any ſheriff ſhall be ſued for any thing by him done in purſuance of this act, he may plead the general iſſue, and give this act in evidence. *(a)*

XIII. Every ſheriff of every county, and every ſerjeant of every corporation, ſhall, on or before the laſt day of May, in every year, account with the clerks of the reſpective diſtrict, county and corporation courts, and the reſpective ſurveyors, for all fees put into his hands purſuant to this act, and pay the ſame, abating ſix per centum for collecting. And if any ſheriff or ſerjeant ſhall refuſe to account or pay the whole amount of fees put into his hands, after the deductions aforeſaid made, together with an allowance of what is charged to perſons not dwelling, or having no viſible eſtate in his county, it ſhall and may be lawful for the clerks or ſurveyors, their executors or adminiſtrators, upon a motion made in the next ſucceeding diſtrict court, or in the court of the county of ſuch ſheriff, or in the court of the corporation of ſuch ſerjeant, to demand judgment againſt ſuch ſheriff or ſerjeant, for all fees wherewith he ſhall be chargeable by virtue of this act; and ſuch court is hereby authoriſed and required to give judgment accordingly, and to award execution thereupon; provided the ſheriff have ten days previous notice of ſuch motion. *(b)*

XIV. The clerks of the court of appeals, high court of chancery, and general court, ſhall deliver their tickets to the reſpective ſheriffs and ſerjeants, annually before the firſt day of May, and the ſheriffs and ſerjeants ſhall receive and collect the ſame, and ſhall diſtrain and make ſale of the debtor's ſlaves, goods, or chattels, for all ſuch tickets as ſhall remain unpaid after the firſt day of July, in any year; and if the ſaid ſheriffs or ſerjeants ſhall fail to pay the ſaid fees to the reſpective clerks at their offices in Richmond, or ſuch town or place as the treaſury may be kept at, by the fifteenth day of September, annually, abating ten per centum for collecting and making allowance for inſolvencies and non-reſidents, having no eſtates within their counties, which ſhall be accounted for on oath, the ſaid clerks or either of them, their executors or adminiſtrators, upon motion made in the court of the diſtrict, county or corporation, in which the ſheriff or ſerjeant failing to make

(a) 1787 c 52—Oct. 1778 c 14 *(b)* 1745 c 1 § 13

payment as aforeſaid, may be found, may demand judgment againſt him for all fees, wherewith he ſhall be chargeable by this act, and ſuch court reſpectively ſhall enter judgment accordingly; provided the ſheriff have ten day notice of ſuch motion; and judgment may be obtained as aforeſaid againſt any under ſheriff, who may fail to add the name of his principal to the receipt for ſuch fees. *(a)*

XV. The executors or adminiſtrators of any ſuch ſheriff, under ſheriff, or ſerjeant, ſhall be liable to judgment as aforeſaid, for the fees received, to be collected by their teſtator or inteſtate, and accounted for. Every receipt for fees produced in evidence on any ſuch motion, ſhall be deemed to be the act of the perſon ſubſcribing it, unleſs he ſhall deny the ſame upon oath.

XVI. The clerks of the ſaid courts, their executors or adminiſtrators, may obtain judgments as aforeſaid, for all balances now due to them from any ſheriff, under ſheriff, or ſerjeant, on account of fees heretofore put into their hands to be collected.

XVII. The judges of the ſuperior courts (except the general court) ſhall make ſuch allowances from time to time to their reſpective officers as they ſhall think reaſonable; taking into account the time paſt for which no allowance hath been made by the aſſembly; which allowances when made and audited, ſhall be paid by the treaſurer out of any public money in his hands.

The repealing clauſe is as in the appendix No. 17.

December the 4th, 1793.

§ I. WHEREAS that part of the ſixteenth ſection of the act of laſt ſeſſion of aſſembly, intituled, "An act reducing into one the ſeveral acts concerning the "fees of certain officers, and declaring the mode of diſcharging the ſaid fees and county "levies," which empowers the judges of the ſuperior courts (the general court excepted) to make ſuch allowances from time to time to their reſpective officers as they ſhall think reaſonable, taking into account the time paſt for which no allwance hath been made by the general aſſembly, hath been conſtrued to empower the judges of the diſtrict courts to make the ſaid allowances:

II. The ſaid part of the ſixteenth ſection ſhall be, and is hereby repealed; except ſo far as it may relate to the high court of appeals and high court of chancery.

III. And whereas it appears that ſundry ſervices of the clerk of the high court of chancery, formerly provided for, are not noticed in the ſaid recited act of the laſt ſeſſion of aſſembly: It ſhall and may be lawful for the clerk of the ſaid high court of chancery, in addition to the fees allowed him by the ſaid recited act, to demand, receive, and take the ſeveral fees hereinafter mentioned and allowed for any buſineſs by him done ſince the paſſage of the ſaid recited act, or hereafter to be done by virtue of his ſaid office, that is to ſay:

	Dols.	Cts.
For every writ of ſuperſedeas or ſcire facias,	0	43
For taking bond on iſſuing a writ of ſuperſedeas, certiorari, or for an appeal, or any other bond,	0	43
For every other writ whatſoever,	0	35
For entering the ſheriff's return in the rule book,	0	35
For entering the perſonal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	0	18
For entering ſecurity for coſts for perſons out of the country,	0	35
For every rule entered in the rule book,	0	35
For a copy of every rule,	0	18
For every order in court,	0	18

(a) 1785 c 38

	Dols.	Cts.
For a copy of the ſame,	0	18
For filing papers for each party,	0	26
For docketing every cauſe on the docket (to be charged but once)	0	18
For entering every continuance on the docket,	0	18
For the filing a declaration and every plea or demurrer in any cauſe to the making up of an iſſue, directed by the high court of chancery, to be tried at the bar of the ſaid court,	0	35
For every trial, ſwearing the jury and witneſſes and recording a general verdict,	0	87
For adminiſtering an oath or affirmation in court, except witneſſes to a jury,	0	18

IV. And whereas it alſo appears that ſome of the fees to public noraties, formerly provided for by law, have been omitted in the act of laſt ſeſſion, intituled, "An act for appointing public notaries." It ſhall and may be lawful for every public notary, in addition to the fees allowed him by the ſaid laſt recited act, to demand, receive, and take the following fees, to wit: For every atteſtation, proteſtation, and all other inſtruments of publication, under his ſeal of office, the ſum of eighty ſeven cents, and no more.

FELONIES. See Arſon—See Treaſon.

FELONIES OUT OF THE JURISDICTION OF VIRGINIA. Under this head is neceſſarily comprehended, "Treaſon," to keep the act intire.

December the 16th, 1792.

§ I. WHEREAS divers opinions may be what caſe ſhall be adjudged treaſon, and what not: If a man do levy war againſt this commonwealth in the ſame, or be adherent to the enemies of the commonwealth within the ſame, giving to them aid and comfort in the commonwealth or elſewhere, and thereof be legally convicted of open deed by the evidence of two ſufficient and lawful witneſſes, or their own voluntary confeſſion, the caſes above rehearſed, ſhall be judged treaſon, which extendeth to the commonwealth; and the perſon ſo convicted, ſhall ſuffer death without benefit of clergy. *(a)*

II. Alſo every perſon or perſons who ſhall erect or eſtabliſh, or cauſe or procure to be erected or eſtabliſhed, any government ſeparate from, or independent of, the government of Virginia, within the limits therof, unleſs by act of the legiſlature of this commonwealth for that purpoſe firſt obtained; or who ſhall in any ſuch uſurped government hold or execute any office, legiſlative, executive, judiciary or miniſterial, by whatever name ſuch office may be diſtinguiſhed or called; or who ſhall ſwear or otherwiſe ſolemnly profeſs allegiance or fidelity to the ſame; or who ſhall, under pretext of authority derived from, or protection afforded by ſuch uſurped government, reſiſt or oppoſe the due execution of the laws of this commonwealth, ſhall be adjudged guilty of high treaſon, and ſhall be proceeded againſt and puniſhed in the ſame manner as other traitors may be proceeded againſt and puniſhed by the laws now in force. *(b)*

III. Every perſon who ſhall attempt to eſtabliſh ſuch government by any other means than with the aſſent of the legiſlature of this commonwealth, and in purſuance of ſuch attempts, ſhall join with any other perſon or perſons, in any overt act for promoting ſuch attempts, or who ſhall by writing or adviſed ſpeaking, endeavour to inſtigate the people of this commonwealth to erect or eſtabliſh ſuch government without ſuch aſſent as aforeſaid,

(*a*) Oct. 1776 c 3 § 1 (*b*) 1785 c 10 § 2

ject to such pains and penalties, not extending to life or member, as the court before whom the conviction shall be, shall adjudge. *(a)*

IV. If any citizen or inhabitant of this commonwealth, shall go beyond the limits of the United States, within the acknowledged jurisdiction of any civilized nation, in amity with the United States, and shall within the same commit any crime, for which in the judgment of the United States in congress assembled, the law of nations or any treaty between the United States and a foreign nation, require him to be surrendered to the offended nation, and shall thereafter flee within the limits of this commonwealth, and the sovereign of the offended nation shall exhibit to the United States in congress assembled, due and satisfactory evidence of the crime, with a demand of the offender to be tried and punished where the same was committed, and the United States in congress assembled, shall thereupon notify such demand to the executive of this state, and call for the surrender of such offender, the governor with the advice of the council of state, is hereby authorised to cause him to be apprehended, conveyed and delivered to such person or persons as the United States in congress assembled, shall prescribe. *(b)*

V. If any citizen of this commonwealth shall go out of the same into the territory of any christian nation or Indian tribe, in amity with the United States, and shall there commit murder, house burning, robbery, theft, trespass, or other crime, which if committed within this commonwealth, would be punishable by the laws thereof, it shall and may be lawful for any justice of the peace on proof of such offence by the oath of one or more credible witness or witnesses, to issue his warrant directed to all sheriffs, under sheriffs and constables within this commonwealth, commanding them and each of them within their respective counties and precincts, to apprehend such offender or offenders, and him, her or them to bring before such justice, or any other justice of the peace in the same county, or in the county where the offender may be apprehended; and such offender or offenders shall be subject to the same punishment, and shall be dealt with in the same manner as if the offence with which he, she, or they stand charged, had been committed within the body of some county of this commonwealth; and such offenders may be tried by a jury of bystanders, qualified by law to serve on juries in capital cases: *Provided also*, That it shall and may be lawful for the magistrate committing such offender (if the circumstances of the case shall render it absolutely necessary) to appoint the time for holding a court for the examination of such offenders at a more distant period than the law allows with regard to other criminals, provided the same be held within thirty days after the commitment of the prisoner. *(c)*

VI. Where a sufficient proof shall not appear to the court before whom such offender shall be examined, to convict him or her of the charge, it shall and may be lawful for such court (if the circumstances of the case shall, in the opinion of the court require it) to bind such offender to his or her good behaviour, in such sum and for such time as the said court shall judge reasonable. *(d)*

VII. All high treasons, misprisions, and concealment of high treasons and other offences against this commonwealth (except piracies and felonies on the high seas) committed by any citizen of this commonwealth, in any place out of the jurisdiction of the courts of common law in this commonwealth, and all felonies committed by citizen against citizen in any such place other than the high seas, shall be enquired into, heard, determined, and judged in the general court, in the same manner as offences committed within the body of a county are triable in a district court; and such as shall be convict of any such offence, shall suffer such pains, penalties, judgment, and execution, as if they had been attainted and convicted of such offence done within the body of a county. *(e)*

The repealing clause is as in the appendix No. 18.

(a) 1785 c 10 § 3 *(b)* Oct. 1784 c 63 § 2 *(c)* Oct. 1784 c 63 § 3 *(d)* Oct. 1784 c 63 § 4 *(e)* 1786 c 46

FERRIES.

December the 26th, 1792.

§ I. BE *it enacted*, That ferries be conſtantly kept at the places hereafter mentioned, and at the rates annexed to each ferry; that is to ſay:

[Particular ferries are omitted, as being unneceſſary to be publiſhed.]

II. The rates of ferries kept oppoſite to thoſe above mentioned, ſhall be governed by the ſame rates and rules.

III. The tranſportation of the following things ſhall be at the rates following: For every coach, waggon, chariot, and the driver, the ſame as for ſix horſes. For every four wheeled chaiſe, phæton, and driver, the ſame as for four horſes. For every two wheeled riding carriage, the ſame as for two horſes. For every hogſhead of tobacco, the ſame as for one horſe. For every head of neat cattle, the ſame as for one horſe. For every ſheep, hog, goat, or lamb, one fifth part of the ferriage for one horſe. *(a)*

IV. If the keeper of any ferry or toll-bridge ſhall demand and take from any perſon, a greater ſum for the ferriage or toll, than is allowed by this act, ſuch offender ſhall forfeit to the perſon ſo over charged, the ferriage or toll demanded and received, and two dollars for every ſuch offence; recoverable before any juſtice of the peace of the county.

V. The court of every county or corporation wherein a ferry is, or ſhall be appointed, ſhall have and is hereby declared to have authority of ordering and directing what boat or boats, and the number of hands which ſhall be kept at each ferry reſpectively, and the owner of the land whereon any ſuch ferry is, if he hath not already given bond and ſecurity, ſhall, within ſix months from the commencement of this act, give bond with one ſecurity, in the court of the county or corporation wherein ſuch ferry is, in the penalty of ſixty dollars, with condition, that he will duly keep ſuch ferry, or cauſe the ſame to be kept according to law, and will give immediate paſſage to all public meſſengers and expreſſes, when required, from time to time. And in caſe any ſuch perſon ſhall neglect or refuſe to give ſuch bond, or to cauſe the ſame to be given on his behalf, he ſhall forfeit and pay ſeven dollars for every month's refuſal or neglect, to the governor for the time being, and his ſucceſſors, for the better ſupport of the contingent charges of government, recoverable with coſts, in any court of record, where the ſame ſhall be cognizable. *(a)*

VI. All expreſſes ſent on public ſervice by a member of the council, or commander in chief, general or field officer, to the governor for the time being, or the commanding officer of the militia in the next county, to give intelligence of the approach of an enemy, ſhall be accounted public meſſengers and expreſſes, and ferry free, within the condition and meaning of the bond aforeſaid, in caſe the diſpatch carried by ſuch expreſs, be endorſed, "on public ſervice," and ſigned on the ſuperſcription by the perſon ſending the ſame.

VII. And for encouragement of ferry-keepers, and in conſideration of ſetting over public meſſengers, and the perſons exempted by this act: All the men attending the ſaid ferries be free of county levies, and from all other public ſervices of muſters, conſtables clearing highways, impreſſments and other things of like nature, and that keepers of ferries ſhall not be chargeable with any fee for giving bond, and if the county or corporation court ſhall find it requiſite or uſeful that an ordinary be kept at any ferry, they may licenſe ſuch ferry-keeper to keep ordinary, without any fee for the licenſe, or obtaining the ſame, notwithſtanding there be a ſufficient number of other ordinaries in the ſame county or corporation. *Provided always*, That every ferry-keeper ſo licenſed to keep ordinary, ſhall give bond and ſecurity, and be liable to the ſame penalties as other ordinary keepers. And if any other perſon whatſoever ſhall for reward, ſet any perſon or perſons over any river or creek, whereon public ferries are by this act appointed, he or ſhe ſo offending, ſhall forfeit and pay

(a) 1748 c 11

twenty dollars for every ſuch offence, one moiety to the ferry-keeper neareſt the place where ſuch offence ſhall be committed, the other moiety to the informer; and if ſuch ferry-keeper informs, he ſhall have the whole penalty; to be recovered with coſts. *(a)*

VIII. It ſhall be lawful for the court of the county of Norfolk, to let, annually, to the higheſt bidder, the ferries acroſs Elizabeth river and the branches thereof, taking bond and good ſecurity for the due payment of the money, and to apply the ſame as it may be received towards leſſening the county levy. *(b)*

IV. Where there is no ferry correſponding to one appointed by this act, it ſhall be lawful for the court of the county to conſtitute an oppoſite ferry, with the ſame rates. And the courts are empowered to appoint ferries over ſuch rivers and creeks in their reſpective counties, as ſhall be deemed convenient and neceſſary. *(c)*

X. All ferries heretofore eſtabliſhed, and which have not been generally frequented for the ſpace of two years, ſhall be, and the ſame are hereby diſcontinued, unleſs the perſons entitled to keep the ſame, ſhall within ſix months after the paſſing of this act, procure all neceſſary boats and ferrymen, for the tranſportation of paſſengers at their reſpective ferries.

XI. All ferries now eſtabliſhed, and which may be hereafter generally diſuſed and unfrequented for the ſpace of two years, ſhall be likewiſe diſcontinued, unleſs neceſſary boats and ferrymen are prepared for the ſame, within the ſpace of ſix months, after the expiration of the ſaid two years. And all ferries which may be hereafter eſtabliſhed, and which ſhall not be furniſhed with neceſſary boats and ferrymen within the ſpace of ſix months after the eſtabliſhment thereof, or ſhall at any time thereafter be generally diſuſed or unfrequented for the ſpace of two years, ſhall be, and the ſame are hereby diſcontinued. *(d)*

XII. And it ſhall be lawful for the court of the county in which ſuch ferry or ferries ſhall be, on complaint to them made, to ſummon the proprietor or proprietors of the ſame to ſhew cauſe why it ſhall not be diſcontinued, and to decide according to the teſtimony adduced. *(e)*

XIII. It ſhall and may be lawful for any keeper of a ferry, to take into his boat or boats any paſſenger or paſſengers, carriages, horſes, or cattle of any kind whatſoever, on either ſide, to convey them over, and to receive the ferriage for the ſame; any law, uſage, or cuſtom to the contrary, notwithſtanding. *(f)*

The repealing clauſe is as in the appendix No. 19.

November the 22d, 1793.

[Particular places where ferries are eſtabliſhed, are alſo omitted here.]

§ I. AND for the tranſportation of wheel-carriages, tobacco, cattle, and other beaſts, at the places aforeſaid, the ferry keepers may demand and take the following rates, that is to ſay: For every coach, chariot or waggon, and the driver thereof, the ſame as for ſix horſes; for every cart or four wheel chaiſe, and the driver, the ſame as for four horſes; for every two wheel chaiſe or chair, as for two horſes; for every hogſhead of tobacco, as for one horſe; for every head of nett cattle, as for one horſe; and for every ſheep, goat, lamb, or hog, one fifth part of the ferriage for one horſe, and no more.

II. If any ferry keeper ſhall demand or receive any greater rates than are hereby allowed for the ferriage or carriage of any thing, he ſhall for every ſuch offence, forfeit and pay to the party grieved, the ferriages demanded or received, and two dollars; to be recovered with coſts before a juſtice of the peace of the county, where the offence ſhall be committed.

(a) 1748 c 11 § 7—Oct. 1783 c 27 § 2 *(b)* 1787 c 27 *(c)* 1748 c 11 *(d)* 1791 c 23 § 1, 2
(e) 1791 c 23 § 4 *(f)* 1769 c 26

FINES. *See Executive.*

FIRE COMPANIES.

January the 7th, 1788.

§ I. WHEREAS the danger to which the ſeveral towns within this commonwealth are expoſed from fire, is chiefly occaſioned by the want of fire companies duly organized, and it is neceſſary that ſuch companies be incorporated, in order to give them their full effect: It ſhall be lawful for any number of perſons reſident within any town, borough, or corporation, within this commonwealth, exceeding forty perſons, to form themſelves into a company or companies for the purpoſe of extinguiſhing fire, who on having their names and ſubſcriptions recorded in the court of the county or corporation where they reſide, are hereby authoriſed to make ſuch rules and regulations as to a majority of the ſaid company or companies may ſeem proper and neceſſary for the procuring of engines, and other neceſſary implements for working the ſaid engines, and exerciſing the companies raiſed. And that all fines and forfeitures for non-attendance or delinquency impoſed by the ſaid regulations, not exceeding twenty-five ſhillings, ſhall be recoverable before a ſingle magiſtrate on proof of ſuch delinquency, which ſaid fines and forfeitures ſhall be applied to the purpoſes of their inſtitutions.

II. *Provided always*, That all bye-laws or rules to be made by virtue of this act, which are contrary to the conſtitution or laws of the commonwealth, ſhall be null and void.

FISH.

December the 28th, 1795.

§ 1. NO fiſh ſhall be exported out of this commonwealth until the ſame ſhall be packed in barrels, under the regulations herein after expreſſed; and the juſtices of every county and corporation court within this commonwealth are hereby authoriſed and required, whenever application ſhall be made to any court for that purpoſe, and in the months of Auguſt and September annually to nominate and appoint in open court, one or more (not exceeding ſix in one county) fit and able perſon or perſons reſiding in the ſame county, to inſpect the package of all fiſh packed for ſale or exportation in their reſpective counties. And every perſon ſo appointed, ſhall before he enters upon the execution of that office, make oath before the juſtices of his county court, carefully to view, inſpect, and examine, when required, all fiſh packed for ſale or exportation, and to the beſt of his ſkill and judgment not to paſs or ſtamp any barrel of fiſh that is not good, clean, ſound, merchantable, and of the gauge by this act directed, and faithfully to diſcharge the duty of his office, without favor, affection, or partiality; and ſhall conſtantly attend upon notice at ſuch time and place as the owner of any ſuch commodity ſhall appoint to inſpect the ſame within his county, but ſhall not inſpect or ſtamp any fiſh imported from another ſtate of the union, until the ſame ſhall be brought to ſome public landing; and ſhall provide a ſtamp or ſtamps with the firſt letter of his county, the letter V for Virginia, the firſt letter of his own chriſtian name, and his whole ſurname at length to be ſtamped on each barrel or caſk by him paſſed, for which he may demand and take for every barrel of fiſh by him ſtamped, ſix cents to be paid down by the owner.

1 And if any officer ſo appointed and ſworn, ſhall neglect his duty, or ſtamp any ſuch

commodity contrary to this act, he ſhall forfeit and pay one dollar for every barrel of fiſh which ſhall be found not duly qualified, or of leſs weight or contents than this act requires, and alſo one dollar for every neglect of his duty, recoverable by the informer with coſts before a juſtice of the peace of the county where ſuch offence ſhall be committed.

III. Every barrel of fiſh packed within this commonwealth for ſale, in any town eſtabliſhed in this ſtate, or exportation, or imported here, ſhall be packed all of one kind, and in a barrel well ſeaſoned, containing not leſs than thirty nor more than thirty-two gallons; and all barrels ſo packed ſhall be full, well nailed, and pegged, and the fiſh therein ſhall be well ſalted, ſound and well ſeaſoned; and no inſpector ſhall paſs or ſtamp any barrel of fiſh that does not appear to ſuch inſpector to be well ſalted and cured before the ſame is packed; and after the ſame has been inſpected, found merchantable, and paſſed by the inſpector, or inſpectors reſiding in the county where the ſame ſhall be packed or imported, every ſuch barrel ſhall be by him or them ſtamped or branded as aforeſaid, and a certificate thereof given to the owner.

IV. And if any perſon ſhall preſume to ſell or expoſe to ſale, or barter any barrel of fiſh of leſs ſize or gauge than that above mentioned in any town eſtabliſhed in this ſtate, he or ſhe ſhall forfeit and pay to the informer two dollars for every ſuch barrel of fiſh ſold or expoſed to ſale, or barter in this commonwealth, recoverable with coſts by the informer before any juſtice of the county or corporation where ſuch offence ſhall be committed, although the penalty ſhall exceed five dollars; and every juſtice of the peace upon ſuch complaint before him made, and due proof of ſuch offence, ſhall and may by virtue of this act give judgment for the whole penalty, and award execution thereupon; any law to the contrary thereof notwithſtanding: *Provided nevertheleſs*, That from ſuch judgment for more than five dollars, the party grieved may appeal to the next court to be held for the county wherein ſuch complaint was made, the appellant entering into bond with ſufficient ſecurity before the juſtice by whom the judgment ſhall be given, that he will proſecute his appeal with effect, and pay the ſame judgment and all coſts awarded by the court, if the judgment ſhall be affirmed; and the juſtice of the peace taking ſuch bond, ſhall return the ſame, together with the whole record of his proceedings in the cauſe, to the ſame court to which ſuch appeal ſhall be, which court ſhall and may receive, hear, and finally determine the ſame.

V. Every ſeller or exporter of fiſh packed in this commonwealth, and ſtamped or branded, ſhall make oath before a juſtice of the peace, at the time of the delivery of ſuch fiſh ſold or exported, that the ſeveral barrels by him then ſold or exported, are the ſame that were inſpected and paſſed, and do contain the full quantity, without embezzlement or alteration to his knowledge; and every perſon taking a falſe oath, and being lawfully convicted thereof, ſhall ſuffer the pains and penalties inflicted on perſons guilty of wilful and corrupt perjury, and moreover ſhall forfeit and pay the ſum of one hundred dollars, to be recovered by any perſon or perſons that will ſue for the ſame, to his or their own uſe.

VI. And if any ſuch fiſh be put to ſale or ſhipped off without having been approved by an inſpector, and the barrels in which they are contained have not the ſaid inſpectors ſtamp, mark, or brand upon them, or if any maſter of any ſhip or other veſſel, officer or mariner, ſhall receive on board any ſuch ſhip for exportation, the offender or offenders ſhall incur the penalty of two dollars for each barrel ſo ſhipped, to be recovered in any court of record in this commonwealth, by him or them who will ſue for the ſame; and moreover all fiſh laded or received on board for exportation as aforeſaid, ſhall be forfeited. And if any cooper, inſpector, or other perſon, ſhall ſhift any fiſh either on board any ſhip or veſſel, or on ſhore, after the ſame hath been ſo branded, ſtamped, or marked by the inſpector, and ſhip and export the ſame, and a new brand, ſtamp, or mark the barrel whereinto ſuch fiſh are ſhifted, all perſons acting, ordering or aſſiſting therein, and being thereof convicted, ſhall forfeit and pay a ſum not exceeding five dollars. And if any perſon other than the-

proper officer ſhall preſume to mark, ſtamp, or brand any barrel of fiſh with the ſtamping or branding inſtrument belonging to ſuch officer, or other inſtrument made in imitation thereof, ſuch perſon or perſons on conviction thereof, ſhall forfeit and pay the ſum of five dollars for each barrel ſo marked, ſtamped, or branded, to be recovered in the manner before mentioned.

VII. Every cooper, and the maſter or owner of every ſervant or ſlave, who ſhall ſet up barrels for fiſh, ſhall make the ſame in the following manner, to wit: Each barrel, of good, ſtrong, well ſeaſoned timber, clear of ſap, and not leſs than five eighths of an inch thick, tight and well hooped with twelve hoops at the leaſt.

VIII. The ſeveral fines and forfeitures impoſed by this act (except ſuch as are otherwiſe recoverable) ſhall, and may be recovered to the uſe of the informer, where the ſame ſhall not exceed five dollars, before any juſtice of the peace; and for any ſum above five dollars, and not exceeding twenty dollars, by petition in any county court; and for all ſums above twenty dollars, in any court of record within this commonwealth, by action of debt or information with coſts of ſuit.

FLOUR AND BREAD.

December the 21ſt, 1792

§ I. WHEREAS the laws heretofore made for the inſpection of flour, have been found defective, and it has become neceſſary to adopt ſome regulations for the prevention of frauds in the exportation of bread. *(a)*

II. One inſpection of flour ſhall be appointed at each of the following places, to wit: Alexandria, Frederickſburg, Richmond, Peterſburg, Blandford, Weſt-Point, New-Caſtle, York, Falmouth, Port-Royal, Hobb's-Hole, Colcheſter, Dumfries, Mancheſter, Oſborne's, Pocahuntas, Nomony, Broadway, Low-Point, in Surry, Suffolk, Hampton, South-Quay, Norfolk, Morgan's-Town, Smithfield, Fort-Wheeling, Lynchburg, Hanover-Town, Portſmouth, Cumberland-Town, at the mouth of Buffaloe-Creek, on the lands of Charles Prather, and at the mouth of Short-Creek, on the lands of David Chambers, in the county of Ohio. *(a)*

III. The courts of the ſeveral counties in which the places aforeſaid are ſituated, ſhall, at their courts held in the months of September or October in every year, nominate and appoint a perſon of good repute, and who is a ſkilful judge of the quality of flour, to be inſpector of flour at each of the places aforeſaid. In caſe of the death of any perſon ſo appointed, or his refuſal or neglect to act, the juſtices of the ſaid counties reſpectively, or any three of them, ſhall, as ſoon as conveniently may be thereafter, meet together and appoint ſome other perſon in the room of the one ſo dead, or refuſing or neglecting to act, who ſhall execute the duties of his office, until the next court held for the county, where ſuch vacancy may have happened; and at ſuch court the juſtices ſhall appoint in manner before directed, ſome perſon to be inſpector of flour for the reſidue of the year. If any of the ſaid courts ſhall neglect to appoint ſuch inſpector at the time directed by this act, the governor, with the advice of the council, may ſupply ſuch vacancy; and the perſon ſo appointed having taken the oath herein after mentioned, before a juſtice of the peace, ſhall continue in office during the ſame time, and have the ſame power and authority as if he had been appointed by the court of the county.

IV. All bolted wheat flour, and every caſk thereof, brought to any of the places before mentioned for exportation, ſhall be made by the miller or manufacturer thereof, merchantable and of due fineneſs, and without any mixture of coarſer flour, or the flour of any other grain than wheat.

(a) 1787 c 30

V. All bread and flour caſks which ſhall be brought to any of the places before mentioned for exportation, ſhall be well made, of good ſeaſoned materials, tightened with ten hoops, ſufficiently nailed with four nails in each chine hoop, and three nails in each upper bilge hoop; and the flour barrels ſhall be of the following dimenſions, to wit: The ſtaves ſhall be twenty-ſeven inches in length, and the heads ſeventeen inches and a half in diameter; and half barrels ſhall be of the following dimenſions, to wit: The ſtaves ſhall be of the length of twenty-three inches, and the diameter at each head of twelve inches and a half.

VI. Every miller of flour and baker of bread for exportation, ſhall provide and keep a diſtinguiſhable brand-mark, with which he ſhall brand every caſk of flour and bread, and mark thereon the tare and nett weight before the ſame ſhall be removed from the place where it was bolted or baked, under the penalty of forty-two cents for every caſk of flour not hooped and nailed as aforeſaid, and for every caſk of flour or bread ſo removed, and not branded and marked as aforeſaid, to be recovered from ſuch miller or baker, who ſhall neglect to comply with the directions of this act, or from the perſon who brings ſuch flour or bread to any of the places aforeſaid for ſale; and in caſe the penalty aforeſaid ſhall be recovered from the perſon bringing the ſaid flour or bread for ſale, ſuch perſon ſhall and may recover the ſame from the miller, baker, or bolter, from whom ſuch flour or bread was purchaſed or received; provided that it appears that he gave notice to ſuch miller, baker, or bolter, that he intended to carry the ſame to one of the places before mentioned for ſale or exportation, and that he requeſted ſuch baker, miller, or bolter, to ſecure and brand the ſaid berrels.

VII. Every miller and bolter ſhall put into a barrel the full quantity of one hundred and ninety-ſix pounds of flour, and ſhall put into every half barrel the full quantity of ninety-eight pounds of flour; and if any one of them ſhall put a ſmaller quantity of flour into any caſk than is directed by this act, he ſhall forfeit for the deficiency of every pound, under three, eight cents, and for the deficiency, more than three, ſeventeen cents.

VIII. All caſks wherein bread ſhall be packed, ſhall be weighed and the tare marked thereon; and if any perſon ſhall put a falſe or wrong tare on any caſk of bread, to the diſadvantage of the purchaſer, he or ſhe ſhall forfeit for every caſk ſo falſely tared, eighty-three cents; and the inſpector, or his aſſiſtants, upon ſuſpicion, or at the requeſt of the purchaſers, ſhall, and he is hereby required, to unpack any caſk of flour or bread; and if there ſhall be a leſs quantity of flour than is above directed, or if the caſk wherein bread is packed, ſhall be found to weigh more than is marked thereon, the miller, baker, or bolter, (as the caſe may be) ſhall pay the charges of unpacking and repacking, over and above the penalties aforeſaid; but otherwiſe the ſaid charges ſhall be paid by the inſpector, or by the purchaſer, if the trial be made at his requeſt.

IX. Every baker of bread for exportation, ſhall deliver with the ſaid bread a manifeſt of the contents thereof, with his brand marked thereon, and his name ſubſcribed thereto, under the penalty of ſeven dollars for every manifeſt delivered contrary thereto; and if any caſk of bread be found lighter upon trial, than is ſet down in the manifeſt, he ſhall forfeit, for every pound deficient, in the ſame proportion as is heretofore directed as to flour.

X. Any caſk of flour brought to any of the places before mentioned, to be from thence laden or ſhipped for exportation, ſhall be ſubmitted to the view and examination of the inſpectors at ſuch place, who ſhall inſpect and try the ſame, by boring through the head with an inſtrument, not exceeding half an inch in diameter, to be by him provided for that purpoſe; and if he ſhall judge that the ſame is well packed and merchatable according to the directions of this act, he ſhall plug up the hole and brand the caſk in the quarter, with the name of the place at which he is inſpector, with a public brank-mark to be provided for that purpoſe; and ſhall alſo brand and mark the degree of fineneſs, which he ſhall on inſpection, determine the ſaid flour to be of, which degree ſhall be diſtinquiſhed as follows, to wit: Superfine, fine, middling, ſhip-ſtuff; for which trouble the inſpectors at Alexandria,

Fredericksburg, Falmouth, Richmond, Manchester, Petersburg, Pocahuntas, and Blandford, shall have and receive of the owner of such flour, the sum of two cents for each cask, and at every other place of inspection, the inspectors shall be allowed three cents for each cask. No inspector shall pass any flour which shall prove on examination to be unmerchantable, according to the true intent and meaning of this act; but shall cause the same to be marked on the bilge with the word "condemned," or secure it for a further examination, if required, which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owner or owners thereof, the same rate and prices as if the same had been passed. When any person shall think himself aggrieved by the judgment or want of skill in an inspector, in rejecting flour as unmerchantable, it shall be lawful for such person to apply to a justice of the peace, who shall at the charge of the complainant, issue a warrant directed to three indifferent persons, well skilled in the manufacture of flour, to view and examine the same; which said three persons having taken the same oath or affirmation, as by this act is hereinafter directed to be taken by every inspector of flour, shall carefully view and examine the same, and if they or any two of them shall pass and declare the same to be merchantable, in such case the inspector shall erase out the word "condemned," and put such brand on the said flour, as they or any two of them shall direct, and shall re-pay to the complainant his costs; but if on such review the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the cost of such review; and the said inspector for his trouble, shall and may receive three cents for each cask by him received, in case his judgment shall be confirmed. It shall not be lawful for any person to export or lade on board of any ship or vessel for exportation, out of this state, any cask of flour marked "condemned" by an inspector; or to export or lade on board of any ship or vessel for exportation, from any port or place within this state, any casks or barrels of flour not inspected or branded as aforesaid, on pain of forfeiting ten dollars for every cask or barrel exported or laden on board any ship or vessel for exportation.

XI. And whereas complaints have been made that evil disposed persons have packed flour and meal in old casks which have been branded agreeable to this act, by which means that valuable staple is often injured at foreign markets: If any person shall pack flour or meal of any kind whatsoever, in a cask which has been inspected and branded with the name of a miller, such person shall forfeit and pay twenty dollars for every barrel so falsely packed for sale, to be recovered by petition and summons in any county or corporation court, one half to the use of the informer, and the other half to the miller who has been injured by such false packing; and shall also be liable to the action of the party aggrieved.

XII. *Provided nevertheless*, That where any mill for the manufacturing of flour shall be situated on navigable water below the falls, it shall be lafwul for the owner of such mill to require the inspector of flour, who resides the nearest thereto, to attend and inspect the flour manufactured by him, and the inspector or his deputy is hereby required to inspect and brand all such flour, in the same manner as if such flour had been carried to the place at which he is inspector, and the proprietor may thereupon export the same in like manner, as if it had been inspected at any of the before mentioned places.

XIII. Every inspector of flour before he enters on the execution of his office shall make oath or affirmation;

"That he will without favor, affection, malice or partiality, carefully inspect all flour "brought to him, and which he shall be required to examine; that no flour shall be passed "or branded by him without his inspecting the same; that he will not brand, or cause to "be branded, as passed, any cask or casks of flour, that do not appear to him, to the best of "his skill and judgment, to be sufficiently clean, well ground, sweet, and merchantable; "that he will mark on all casks of flour the degree thereof, according to the directions of "this act; that he will carefully examine the casks in which flour brought for inspection

" ſhall be contained; and that he will not paſs or brand any ſuch caſks, unleſs they be of " ſuch ſize, goodneſs, and thickneſs, as by this act required."

XIV. No inſpector of flour ſhall directly or indirectly purchaſe any flour by him condemned, or any other flour whatſoever, other than for his own uſe, under the penalty of ſeven dollars for every barrel by him purchaſed.

XV. If any perſon ſhall alter the mark ſtamped on any caſk of flour by an inſpector, or ſhall mark or brand any caſk of flour which has not been inſpected, with any mark or brand ſimilar to, or in imitation of an inſpectors 'mark or brand, or after an inſpector ſhall have paſſed any caſk of flour as merchantable, ſhall pack into ſuch caſk any other flour, or after any caſk of flour ſhall be branded " condemned," ſhall unpack and repack the ſame in other caſks for exportation, ſuch perſon ſhall forfeit and pay the ſum of ſeven dollars for every caſk.

XVI. If the quantity of flour which ſhall be brought to any of the above mentioned places for inſpection, ſhall at any time be ſo great that the inſpector cannot alone examine the ſame with ſufficient diſpatch; or if through ſickneſs the inſpector ſhall be incapable of diſcharging the duties of his office, on ſuch occaſions, it ſhall be lawful for him to appoint one or more perſons of good repute, and good judges of the quality of flour to aſſiſt him in the execution of his office. Such aſſiſtants having taken the oath or affirmation preſcribed by this act to be taken by an inſpector, ſhall be authoriſed to inſpect and brand any flour in the ſame manner as the inſpector may do.

XVII. The courts of the ſeveral counties in which the before mentioned places are ſituated, may at any time remove from office any inſpector of flour for neglect of duty, malfeazance, or corrupt practices, and may ſupply the vacancy occaſioned thereby, by appointing another inſpector for the reſidue of the year.

XVIII. The penalties and forfeitures impoſed by this act may be recovered by the informer before a ſingle magiſtrate, where the penalty does not exceed five dollars, and where they are over that ſum, but do not exceed twenty dollars, the ſame ſhall be recovered by petition in the ſame manner as is by law directed in caſe of petitions for the like ſum of money, and where the penalty incurred ſhall exceed the ſum of twenty dollars, the proſecutor may ſue for the ſame in the court of the county, or corporation, where the defendant reſides, or where the offence was committed, one half of which ſaid penalties and forfeitures ſhall accrue to the uſe of the informer, and the other half to the uſe of the commonwealth, if not otherwiſe appropriated. The proſecutor may make oath before the juſtice of the peace, of the nature of the action, and that he verily believes the defendant hath incurred the penalty and forfeiture thereby demanded, which the clerk upon a certificate thereof to him produced, ſhall endorſe upon the back of the writ, and thereupon the defendant ſhall be ruled to give ſpecial bail. *(a)*

The repealing clauſe is as in the appendix No. 17.

December the 4th, 1793.

§ I. ALL caſks wherein flour ſhall be packed, ſhall be weighed, and the tare marked thereon. And if any perſon ſhall put a falſe or wrong tare on any caſk of flour, to the diſadvantage of the purchaſer, he or ſhe ſhall forfeit for every caſk ſo falſely tared, eigthty-three cents, and the inſpector, or his deputy, or aſſiſtant, upon ſuſpicion, or at the requeſt of the purchaſer, ſhall and is hereby required to unpack any caſk of flour, and if the caſk wherein flour is packed, be falſely tared, the miller or bolter ſhall pay the charges of unpacking and repacking, over and above the penalties impoſed by this act, and by the act intituled, *(b)* " An act, reducing into one, the ſeveral acts for regulating the " inſpection of flour and bread," but otherwiſe the ſaid charges ſhall be paid by the inſpector or the purchaſer, if the trial be made at his requeſt. The penalty hereby impoſed, ſhall and may

(a) 1788 c 36. *(b)* The title of the foregoing act.

be recovered, and ſhall be payable as in the ſaid recited act is directed, of, and concerning the penalties therein impoſed.

II. That part of the penalties which is to go to the uſe of the commonwealth, ſhall be paid to the inſpector at the place where the offence ſhall be diſcovered, who ſhall annually to the court of his county, held in the month of September, render a fair and juſt account thereof, upon oath, a copy whereof ſhall be certified by the ſaid court, and being ſo certified, ſhall be tranſmitted to the auditor of public accounts, by their clerk, who ſhall debit the ſaid inſpector therewith, and the ſaid inſpector ſhall annually pay the amount thereof, after deducting a commiſſion after the rate of ſix per centum, into the public treaſury, on or before the firſt day of January in each year; and in caſe of failure to make ſuch payment, the balance due, may be recovered in like manner, as the public taxes are now recoverable from delinquent ſheriffs. An account in like manner, ſhall be rendered by each inſpector, at the next September court held in his county, of all the penalties heretofore paid to him, to be certified and tranſmitted as aforeſaid, and he ſhall thereafter pay the part belonging to the commonwealth, in like manner, and he ſhall be entitled to the ſame commiſſion, and be liable in caſe of failure of payment, to the ſame proceedings as is herein before directed and preſcribed in other caſes.

III. Every inſpector failing to render the account herein before required, at the time, and in the manner herein before mentioned, ſhall be incapable of being reappointed to the ſaid office of inſpector of flour, by his ſaid county court.

FORCIBLE ENTRIES AND DETAINERS.

December the 3d, 1792

§ I. NONE ſhall make any entry into any lands and tenements, or other poſſeſſions whatſoever, but in caſe where entry is given by the law; and in ſuch caſe not with ſtrong hand, nor with multitude of people, but only in a peaceable and eaſy manner, and that none who ſhall have entered into the ſame in a peaceable manner, ſhall hold the ſame afterwards with force; and if any ſhall do to the contrary, on complaint thereof to any juſtice or juſtices of the peace, ſuch juſtice or juſtices ſhall take ſufficient power of the county, and go to the place where ſuch force is made; and all the people of the county, as well the ſheriff as others, ſhall be attendant upon the ſame juſtices, to go and aſſiſt them to arreſt ſuch offenders, upon pain of impriſonment and amercement, at the diſcretion of a jury. *(a)*

II. But no warrant of forcible entry and detainer, or of forcilbe detainer, ſhall hereafter be granted, unleſs upon the oath or affirmation of the party praying the ſame.

III. The name or names of the perſon or perſons ſo charged, ſhall be inſerted in every ſuch warrant; and the ſheriff or other officer to whom the ſame ſhall be directed, ſhall give reaſonable notice, of at leaſt three days, to ſuch perſon or perſons, of the time and place of taking the inquiſition. And no jury ſhall be ſworn to enquire of any forcible entry or detainer, where ſuch previous notice hath not been given.

IV. And moreover, though ſuch perſons making ſuch entries be preſent, or elſe departed before the coming of ſuch juſtice or juſtices, notwithſtanding the ſaid juſtice or juſtices, in ſome conveniet place, according to their diſcretion, ſhall have authority and power to enquire by the people of the ſame county, as well of them that make ſuch forcible entries in lands and tenements, as of them who hold the ſame with force; and if it be found before any of them, that any doth contrary to this act, then the ſaid juſtice or juſtices ſhall cauſe to be re-ſeized, or to be re-poſſeſſed, the lands and tenements ſo entered or holden as afore, and ſhall put the party ſo put out, in full poſſeſſion thereof.

(a) 1738 c 45—1789 c 7

V. And alſo when the ſaid juſtice or juſtices make ſuch enquiries as before, he or they ſhall make their warrants and precepts, to be directed to the ſheriff of the ſame county, commanding him on behalf of the commonwealth, to cauſe to come before him or them, fit perſons to enquire of ſuch entries: And if any ſheriff be ſlack, and make not execution duly of the ſaid precepts to him directed, to make ſuch enquiries, he ſhall forfeit eighty dollars, recoverable before any court of record, as well by indictment or information, to be taken only for the commonwealth, as by bill at the ſuit of the party grieved, as well for himſelf as for the commonwealth; in which caſe one moiety of the ſaid eighty dollars ſhall be to the commonwealth, and the other moiety, together with his coſts and expences, ſhall be to the party ſuing.

VI. And moreover, mayors, aldermen, and ſerjeants of cities and boroughs, ſhall have in the ſaid cities and boroughs, like power to remove ſuch entries, and in other articles aforeſaid ariſing within the ſame, as the juſtices of peace, and ſheriffs in counties reſpectively have.

VII. But no reſtitution upon any indictment of forcible entry, or holding with force, ſhall be made to any, if the party indicted hath had the occupation, or hath been in quiet poſſeſſion by the ſpace of three whole years together, next before the day of ſuch indictment ſo found, and his eſtate therein be not ended or determined; which the party indicted may alledge for ſtay of reſtitution, and reſtitution ſhall ſtay until that be tried, if the other will deny or traverſe the ſame; and if the ſame allegation be tried againſt the party ſo indicted, then the ſame party ſo indicted, ſhall pay ſuch coſts and damages to the other party, as ſhall be aſſeſſed by the judges or juſtices before whom the ſame ſhall be tried.

VIII. Tenants for terms of years, and tenants by elegit of lands, or tenements by them ſo holden, which ſhall be entered upon by force, or holden from them by force, ſhall have the ſame remedy as tenants of any eſtate of freehold or of inheritance.

The repealing clauſe is as in the appendix No. 10.

FORCIBLE MARRIAGES. *See Marriages.*

FOREIGN DEEDS, RECORDS, AND OTHER INSTRUMENTS.

December the 8th, 1792—but commenced October 1ſt, 1793.

§ I. WHEREAS the intercourſe between this ſtate and the other ſtates in the Union, and between this ſtate and foreign nations, has become more conſiderable than heretofore, which renders it neceſſary that ſome mode ſhould be adopted, to give authenticity to deeds and certain other inſtruments in writing, foreign judgments, ſpecialties on record, regiſters of births and marriages, made, executed, entered into, given and enregiſtered by and between perſons reſiding in any of the United States, or in any foreign kingdom, ſtate, nation, or colony beyond ſea, and out of the juriſdiction of this ſtate. *(a)*

II. All ſuch deeds, if acknowledged by the party making the ſame, or proved by the number of witneſſes requiſite before any court of law, or the mayor, or other chief magiſtrate of any city, town, or corporation of the country in which the party ſhall dwell, certified by ſuch court, or mayor, or chief magiſtrate, in the manner ſuch acts are uſually authenticated by them; and all policies of inſurance, charter parties, powers of attorney, foreign judgments, ſpecialties on record, regiſters of birth and marriages, as have been or ſhall be made, executed, entered into, given and enregiſtered in due form, according to the laws of ſuch ſtate, kingdom, nation, province, iſland or colony, and atteſted by a notary public, with a teſtimonial from the proper officer of the city, county, corporation, or borough,

(a) 1787 c 21 § 4

where ſuch notary public ſhall reſide, or the great ſeal of ſuch ſtate, kingdom, province, iſland, colony or place beyond ſea, ſhall be evidence in all the courts of record within this commonwealth, as if the ſame had been proved in the ſaid courts. *(a)*

III. All and every act, clauſe and clauſes of acts, coming within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided always*, That nothing in this act contained, ſhall be conſtrued in any manner to alter the method of taking and certifying the privy examination of any feme covert, or in any other reſpect to alter or repeal the act, intituled, "An act for regulating conveyances."

FORGERY. See Thefts and Forgeries.

FORMA PAUPERIS. See Poor.

FRAUDS AND PERJURIES.

November the 30th, 1785—but commenced January the 1ſt, 1787.

§ I. NO action ſhall be brought whereby to charge any executor or adminiſtrator upon any ſpecial promiſe to anſwer any debt or damages out of his own eſtate, or whereby to charge the defendant upon any ſpecial promiſe to anſwer for the debt, default, or miſcarriage of another perſon, or to charge any perſon upon any agreement made upon conſideration of marriage, or upon any contract for the ſale of lands, tenements, or hereditaments, or the making any leaſe thereof for a longer term than one year, or upon any agreement which is not to be performed within the ſpace of one year from the making thereof, unleſs the promiſe or agreement upon which ſuch action ſhall be brought, or ſome memorandum or note thereof ſhall be in writing, and ſigned by the party to be charged therewith, or ſome other perſon by him thereunto lawfully authoriſed. *(b)*

II. Every gift, grant, or conveyance of lands, tenements, hereditaments, goods, or chattels, or of any rent, common, or profit out of the ſame, by writing or otherwiſe, and every bond, ſuit, judgment or execution, had or made, and contrived of malice, fraud, covin, colluſion, or guile, to the intent or purpoſe to delay, hinder, or defraud creditors of their juſt and lawful actions, ſuits, debts, accounts, damages, penalties, or forfeitures, or to defraud or deceive thoſe who ſhall purchaſe the ſame lands, tenements, or hereditaments, or any rent, profit, or commodity out of them, ſhall be from henceforth deemed and taken, (only as againſt the perſon or perſons, his, her, or their heirs, ſucceſſors, executors, adminiſtrators, or aſſigns, and every of them, whoſe debts, ſuits, demands, eſtates intereſts, by ſuch guileful and covenous devices and practices, as is aforeſaid, ſhall or might be in any wiſe diſturbed, hindered, delayed, or defrauded) to be clearly and utterly void, any pretence, colour, feigned conſideration, expreſſing of uſe, or any other matter or thing to the contrary notwithſtanding. And moreover, if a conveyance be of goods and chattels, and be not on conſideration deemed valuable in law, it ſhall be taken to be fraudulent within this act, unleſs the ſame be by will duly proved and recorded, or by deed in writing acknowledged or proved, if the ſame deed include lands alſo, in ſuch manner as conveyances of land are by law directed to be acknowledged or proved, or if it be of goods and chattels only, then acknowledged or proved by two witneſſes in the general court, or court of the county, wherein one of the parties lives, within eight months after the execution thereof, or unleſs poſſeſſion ſhall really and bona fide remain with the donee; and in like manner where any loan of goods and chattels ſhall be pretended to have been made to

(a) 1787 c 21 § 5 *(b)* See St. 29 Car. II. c 3—alſo 13 Eliz. c 5 & 27 Eliz. c 4

any perſon with whom, or thoſe claiming under him, poſſeſſion ſhall have remained by the ſpace of five years without demand made, and purſued by due proceſs at law on the part of the pretended lender, or where any reſervation or limitation ſhall be pretended to have been made of a uſe or property, by way of condition; reverſion, remainder, or otherwiſe, in goods and chattels, the poſſeſſion whereof ſhall have remained in another as aforeſaid, the ſame ſhall be taken as to the creditors and purchaſers of the perſons aforeſaid, ſo remaining in poſſeſſion, to be fraudulent within this act, and that the abſolute property is with the poſſeſſion, unleſs ſuch loan, reſervation, or limitation of uſe or property, were declared by will or by deed, in writing proved, and recorded as aforeſaid.

III. This act ſhall not extend to any eſtate or intereſt in any lands, goods, or chattels, or any rents, common, or profit out of the ſame, which ſhall be upon good conſideration, and bona fide, lawfully conveyed or aſſured to any perſon or perſons, bodies politic or corporate.

FRAUDULENT DEVISES.

December the 17th, 1787.

§ I. WHEREAS it is not reaſonable or juſt, that by the practice or contrivance of any debtors, their creditors ſhould be defrauded of their juſt debts, and nevertheleſs it hath often ſo happened, that where ſeveral perſons, having by bonds or other ſpecialties bound themſelves and their heirs, have afterwards died, ſeized in fee ſimple of, and in meſſuages, lands, tenements and heriditaments, or having power or authority to diſpoſe of, or charge the ſame by their wills or teſtaments, have, to the defrauding of ſuch their creditors by their laſt wills or teſtaments deviſed the ſame, or diſpoſed thereof in ſuch manner as ſuch creditors have loſt their ſaid debts: For remedying of which, and for the maintenance of juſt and upright dealing; *(a)*

II. All wills and teſtaments, limitations, diſpoſitions or appointments of, or concerning any meſſuages, lands, tenements, or hereditaments, or of any rent, profit, term or charge out of the ſame, whereof any perſon or perſons, at the time of his, her, or their deceaſe, ſhall be ſeized in fee ſimple, in poſſeſſion, reverſion, or remainder, or have power to diſpoſe of the ſame by his, her, or their laſt wills or teſtaments, ſhall be deemed and taken (only as againſt ſuch creditor or creditors as aforeſaid, his, her and their heirs, ſucceſſors, executors, adminiſtrators and aſſigns, and every of them) to be fraudulent, and clearly, abſolutely and utterly void, fruſtrate and of none effect; any pretence, colour, feigned, or preſumed conſideration, or any other matter or thing to the contrary, notwithſtanding.

III. And for the means that ſuch creditors may be enabled to recover their ſaid debts, in the caſes beforementioned, every ſuch creditor ſhall and may have and maintain, his, her and their action and actions of debt, upon his, her and their ſaid bonds and ſpecialties, againſt the heir and heirs at law of ſuch obligor or obligors, and ſuch deviſee and deviſees jointly by virtue of this act; and ſuch deviſee or deviſees ſhall be liable and chargeable for a falſe plea by him or them pleaded, in the ſame manner as any heir ſhould have been for any falſe plea by him pleaded, or for not confeſſing the lands or tenements to him deſcended.

IV. *Provided always*, That where there hath been, or ſhall be any limitation or appointment, deviſe or diſpoſition, of, or concerning any meſſuages, lands, tenements or hereditaments, for the raiſing or payment of any real and juſt debt or debts, or any portion or portions, ſum or ſums of money, for any child or children of any perſon, other than the heir at law, according to, or in purſuance of any marriage contract or agreement in writing, bona fide made before ſuch marriage, the ſame and every of them ſhall be in full force; and the ſame meſſuages, lands, tenements and hereditaments, ſhall and may be holden and

(a) St. 3 Will. & Mar. c 14.

enjoyed by every ſuch perſon or perſons, his her and their heirs, executors, adminiſtrators and aſſigns, for whom the ſaid limitation, appointment, deviſe or diſpoſition was made, and by his, her, and their truſtee or truſtees, his, her, and their heirs, executors, adminiſtrators and aſſigns, for ſuch eſtate or intereſt as ſhall be ſo limited or appointed, deviſed or diſpoſed, until ſuch debt or debts, portion or portions, ſhall be raiſed, paid and ſatisfied; any thing in this act contained, to the contrary, notwithſtanding.

V. And whereas ſeveral perſons being heirs at law, to avoid the payment of ſuch juſt debts, as in regard of the lands, tenements, and hereditaments, deſcending to them, they have by law, been liable to pay, have ſold, aliened, or made over ſuch lands, tenements, or hereditaments, before any proceſs was or could be iſſued out againſt them:

VI. In all caſes where any heir at law ſhall be liable to pay the debt of his anceſtor in regard of any lands, tenements or hereditaments, deſcending to him, and ſhall ſell, aliene or make over the ſame, before any action brought, or proceſs ſued out againſt him, ſuch heir at law ſhall be anſwerable for ſuch debt or debts, in an action or actions of debt, to the value of the ſaid land ſo by him ſold, aliened, or made over; in which caſes all creditors ſhall be preferred, as in actions againſt executors and adminiſtrators, and ſuch execution ſhall be taken out upon any judgment or judgments ſo obtained againſt ſuch heir, to the value of the ſaid land, as if the ſame were his own proper debt or debts, ſaving that the lands, tenements, and hereditaments, bona fide aliened before the action brought, ſhall not be liable to ſuch execution.

VII. *Provided always*, That where any action of debt upon any ſpecialty is brought againſt any heir, he may plead riens per diſcent at the time of the original writ brought, or the bill filed againſt him; any thing herein contained to the contrary, notwithſtanding: and the plaintiff in ſuch action may reply that he had lands, tenements or hereditaments from his anceſtor before the original writ brought or bill filed; and if upon iſſue joined thereupon, it be found for the plaintiff, the jury ſhall enquire of the value of the lands, tenements or hereditaments ſo deſcended, and thereupon judgment ſhall be given, and execution ſhall be awarded as aforeſaid; but if judgment be given againſt ſuch heir by confeſſion of the action with confeſſing the aſſets deſcended, or upon demurrer or nihil dicit, it ſhall be for the debt and damages, without any writ to enquire of the lands, tenements or hereditaments ſo deſcended.

VIII. *Provided alſo*, That all and every deviſee and deviſees made liable by this act, ſhall be liable and chargeable in the ſame manner as the heir at law by force of this act, notwithſtanding the lands, tenements and hereditaments to him or them deviſed, ſhall be aliened before the action brought.

FREE MULATTOES.
FREE NEGROES. } *See Slaves, &c.*

GAMING.

December the 8th, 1792—but commenced October 1ſt, 1793.

§ 1. ALL promiſes, agreements, notes, bills, bonds, or other contracts, judgments, mortgages, or other ſecurities or conveyances whatſoever, made, given, granted, drawn, or entered into, or executed by any perſon or perſons whatſoever, before or after paſſing this act, where the whole or any part of the conſideration of ſuch promiſe, agreement, conveyances, or ſecurities, ſhall be for money or other valuable thing whatſoever, won, laid or betted at cards, dice, tables, tennes, bowles, or any other game or games whatſoever, or at any horſe-race, cock-fighting, or any other ſport or paſtime, or on any wager whatſoever, or for the reimburſing or repaying any money, knowingly lent or advanced,

at the time and place of ſuch play, horſe-racing, cock-fighting, or other ſport or paſtime, to any perſon or perſons ſo gaming, betting, or wagering, or that ſhall at ſuch time and place, ſo play, bet or wager, ſhall be utterly void, fruſtrate and of none effect, to all intents and purpoſes whatſoever; any law, cuſtom, or uſage, to the contrary thereof, in any wiſe, notwithſtanding. *(a)*

II. Any conveyance or leaſe of lands, tenements, or hereditaments, ſold, demiſed, or mortgaged, and any ſale, mortgage, or other transfer of ſlaves or other perſonal eſtate, to any perſon, or for his uſe, to ſatisfy or ſecure money, or other thing by him won of, or lent or advanced to, the ſeller, leſſor, or mortgagor, or whereof money or other thing ſo won, or lent, or advanced, ſhall be part or all of the conſideration money, ſhall inure to the uſe of the heirs of ſuch mortgagor, leſſor, bargainor, or vendor, and ſhall veſt the whole eſtate and intereſt of ſuch perſon in the lands, tenements, or hereditaments, ſo leaſed, mortgaged, bargained, or ſold, and in the ſlaves, or other perſonal eſtate ſo ſold, mortgaged, or otherwiſe transferred, to all intents and purpoſes, in the heirs of ſuch leſſor, bargainor, mortgagor, or vendor, as if ſuch leſſor, bargainor, mortgagor, or vendor had died inteſtate. *(b)*

III. If any perſon or perſons whatſoever, at any time hereafter within the ſpace of twenty-four hours, by playing at any game or games whatſoever, or by betting on the ſides or hands of ſuch as do play at any game or games, ſhall loſe to any one or more perſon or perſons ſo playing or betting, the ſum or value of ſeven dollars or more in the whole, and ſhall pay or deliver the ſame or any part thereof, the perſon or perſons ſo loſing and paying, or delivering the ſame, ſhall be at liberty within three months then next following, to ſue for and recover the money or goods ſo loſt and paid or delivered, or any part thereof, from the reſpective winner or winners thereof, with coſts of ſuit, by action of debt founded on this act, to be proſecuted in any court of record within this commonwealth, where the ſum or value thereof ſhall be cognizable; in which action it ſhall be ſufficient for the plaintiff to alledge that the defendant is indebted to the plaintiff, or received to the plaintiff's uſe, the money ſo loſt and paid, or converted the goods won of the plaintiff to the defendant's uſe, whereby the plaintiff's action accrued to him according to the form of this act, without ſetting forth the ſpecial matter; and in caſe the party loſing ſuch money or other thing, as aforeſaid, ſhall not within the time aforeſaid, really and bona fide, without covin or colluſion, ſue, and with effect proſecute for the money or other thing ſo loſt and paid or delivered, it ſhall and may be lawful to and for any other perſon or perſons, by any ſuch action or ſuit, as aforeſaid, to ſue for and recover the ſame, and treble the value thereof, with coſts of ſuit, againſt ſuch winner or winners, as aforeſaid, the one moiety thereof to the uſe of the perſon or perſons ſuing for the ſame, and the other moiety to the uſe of the pariſh where ſuch offence ſhall be committed; and every perſon who by virtue of this preſent act, ſhall or may be liable to be ſued for monies or other things ſo won, as aforeſaid, ſhall be obliged and compellable to anſwer upon oath, ſuch bill or bills as ſhall be prefered againſt him or them, for diſcovering the money or other things ſo won at play, as aforeſaid. *(c)*

IV. *Provided always*, That upon diſcovery and repayment of the money or other thing ſo to be diſcovered and repaid, as aforeſaid, the perſon and perſons diſcovering and repaying the ſame, ſhall be acquitted, indemnified, and diſcharged from any further or other forfeiture, puniſhment, or penalty which he or they may have incurred by the playing for and winning ſuch money or other thing ſo diſcovered and repaid. *(d)*

V. And to prevent gaming at ordinaries and other places, which muſt be often attended with quarrels, diſputes, and controverſies, the impoveriſhment of many people and their families, and the ruin of the health and corruption of the manners of youth, who upon ſuch occaſions frequently fall in company with lewd, idle and diſſolute perſons, who have no

(*a*) 22 Geo. II. c 25 § 1 (*b*) Oct. 1779 c 42 § 1 (*c*) 22 Geo. II. c 25 § 3 (*d*) 22 Geo. II. c 25 § 4

other way of maintaining themſelves but by gaming: If any perſon or perſons ſhall at any time play in an ordinary, race-field, or any other public place, at any game or games whatſoever, except billiards, bowles, backgammon, cheſs, or draughts, or ſhall bet on the ſides or hands of ſuch as do game, every ſuch perſon upon conviction thereof, before any juſtice of peace in any county within this commonwealth, by the oath of one or more credible witneſs or witneſſes, (which oath the ſaid juſtice is hereby empowered to adminiſter) or by the view of ſuch juſtice, or the confeſſion of the party accuſed, ſhall forfeit and pay twenty dollars, to be levied by diſtreſs and ſale of the offenders goods, by warrant under the hand of the juſtice before whom ſuch conviction ſhall be, and for the uſe of the poor of the pariſh wherein ſuch offence ſhall be committed; and moreover, every perſon ſo convicted, ſhall be committed to the county jail, there to remain until he, ſhe, or they, give ſufficient ſecurity for his, her, or their good behaviour for twelve months next after ſuch conviction. *(a)*

VI. If any perſon by playing or betting at any game or wager whatſoever, at any time within the ſpace of twenty-four hours, ſhall loſe or win to or from another, a greater ſum or any thing of greater value than twenty dollars, the loſer and winner ſhall be liable to pay one half of the entire ſum above the ſaid ſum of twenty dollars which he ſhall ſo win or loſe; and upon information thereof made to any county court, and due proof thereof had, ſuch county court ſhall levy upon the goods and chattels of the offenders, the full penalty incurred, to be applied to leſſening the levy of the county wherein ſuch offence ſhall be committed.

VII. And whereas divers lewd and diſſolute perſons live at great expences, having no viſible eſtate, profeſſion, or calling to ſupport them, but by gaming only: It ſhall be lawful for any two juſtices of peace in any county or corporation, to cauſe to come or be brought before them, every perſon within their reſpective limits, whom they ſhall have juſt cauſe to ſuſpect to have no viſible eſtate, profeſſion, or calling to maintain himſelf by, but for the moſt part ſupporting himſelf by gaming; and if ſuch perſon ſhall not make it appear to ſuch juſtices, that the principal part of his expences is not maintained by gaming, they ſhall require of him ſufficient ſecurities for his good behaviour for the ſpace of twelve months, and on refuſal thereof, ſhall commit him to the common jail, there to remain until he ſhall find ſuch ſecurities; and if ſuch perſon ſhall give ſuch ſecurities, and afterwards within that time ſhall play or bet for any money or other valuable thing whatſoever, ſuch playing or betting ſhall be a breach of the behaviour, and a forfeiture of the recognizance given for the ſame. *(b)*

VIII. And to prevent quarrels happening by gaming: If any perſon or perſons ſhall aſſault and beat, or ſhall challenge or provoke to fight, any perſon or perſons whatſoever, upon account of any money or other thing won by gaming or betting, the perſon and perſons ſo aſſaulting, beating, challenging, or provoking to fight, being thereof convicted, ſhall forfeit to the party grieved thirty dollars, to be recovered with coſts, by action of debt in any county court; and moreover ſhall be liable to the action of the party grieved, at the common law. *(c)*

IX. If any perſon or perſons whatſoever, do or ſhall at any time or times, by any fraud, ſhift, cozenage, circumvention, deceit, unlawful device, or evil practice whatſoever, in playing at, or with cards, dice, or any other game or games, or in, or by bearing a ſhare or part in the ſtakes, wagers, or adventures, or in, or by betting on the ſides or hands of ſuch as do or ſhall play, win, obtain, or acquire to him or themſelves, or to any other or others, any ſum or ſums of money, or other valuable thing or things whatſoever, every perſon ſo winning by ſuch ill practice, and being thereof convicted upon indictment, or information, ſhall forfeit five times the value of the money or other thing ſo won, and ſhall be deemed infamous, and ſuffer ſuch corporal puniſhment as in caſes of wilful perjury; and ſuch pe-

(a) 22 Geo. II. c 25 § 5. *(b)* 22 Geo. II. c 5 § 6. *(c)* 22 Geo. II. c 5 § 10.

nalty ſhall be recoverable with coſts, by any perſon or perſons ſuing for the ſame, by action of debt in any court of record in this commonwealth, having cognizance hereof. *(a)*

X. *Provided always*, That any perſon aggrieved by the judgment of any juſtice of peace upon any conviction for any of the offences in this act cognizable before him, may appeal to the next court to be held for the county where ſuch perſon ſhall be convicted, but ſhall give reaſonable notice of ſuch appeal to the party proſecuting him or her, and ſhall alſo enter into recognizances with two ſufficient ſecuries, before ſome juſtice of the county wherein the judgment was give, on condition to try ſuch appeal at the next court held for the ſame county after the entering ſuch appeal, which ſhall be by the ſaid court then heard and finally determined: *Provided alſo*, That no ſuch judgment ſhall be ſet aſide for want of form, wherein it ſhall appear to the court, that the facts where ſufficiently proved at the trial, nor ſhall any judgment be removed or removable by appeal, or any writ or proceſs whatſoever, into the diſtrict court. *(b)*

XI. All and every keeper or keepers, exhibitor or exhibitors, of either of the gaming tables, commonly called A. B. C. or E. O. tables, or of a farro-bank, or of any other gaming table or bank of the ſame, or of the like kind under any denomination whatever, ſhall be deemed and treated as vagrants; and moreover it ſhall and may be lawful for any juſtice of the peace, or magiſtrate of any corporation court, by warrant under his hand, to order any ſuch gaming table to be ſeized and publicly burnt or deſtroyed. *(c)*

XII. No perſon in order to raiſe money for himſelf or another, ſhall publicly or privately put up a lottery of blanks and prizes, to be drawn or adventured for, or any prize or thing to be raffled or played for; and whoever ſhall offend herein, ſhall forfeit the whole ſum of money propoſed to be raiſed by ſuch lottery, raffling, or playing, to the uſe of the commonwealth. *(d)*

XIII. The preſiding juſtice as well in the diſtrict as in all the inferior courts of law in this commonwealth, ſhall conſtantly give this act in charge to the grand juries of their courts, at the times when ſuch grand juries ſhall be ſworn. *(d)*

XIV. Every act, or clauſe in any act concerning any matter within the purview of this act, ſhall be, and is hereby repealed. *Provided always*, that nothing in this act contained, ſhall be conſtrued to repeal any act heretofore made, for ſo much thereof as may relate to any offence committed or done before the commencement of this act.

GAOLS. See Priſons.

GENERAL ASSEMBLY.

November the 26th, 1795.

§ I. WHEREAS it is juſt, that the members of the general aſſembly, delegated by the people to tranſact for them the legiſlative buſineſs, ſhould, while attending that buſineſs, have their reaſonable expences defrayed, dedicating to the public ſervice their time and labours, freely and without account; and it is alſo expedient that the public councils ſhould not be deprived of the aid of good and able men, who might be deterred from entering into them by the inſufficiency of their private fortunes to bear the extraordinary expences they muſt neceſſarily incur: And whereas a doubt exiſts whether any law is in force at this time aſcertaining their pay and allowance:

II. The allowance to the ſeveral members of the preſent and all future aſſemblies, ſhall

(a) 22 Geo. II. c 5 § 8 *(b)* 22 Geo. II. c 5 § 7 *(c)* 1787 c 4 § 18 *(d)* 1779 c 42 § 5

be two dollars by the day for attendance on the said assemblies, eight cents for every mile they must necessarily travel, going to and from the same; together with their ferriages, to be paid to them in money out of the public treasury.

December the 24th, 1796.

THE meeting of the general assembly shall hereafter be on the first Monday in December, in every year; any law to the contrary thereof notwithstanding.

GENERAL-COURT. *See Courts.*

GOVERNOR AND COUNCIL. *See Executive.*

GRAND-JURIES. *See Juries and Veniremen.*

GUARDIANS, ORPHANS, COMMITTEES, INFANTS, MASTERS AND APPRENTICES.

December the 11th, 1792—but commenced Oct. 1, 1793.

§ I. ANY father, even if he be not twenty-one years old, may, by deed or last will and testament, either of them being executed in presence of two credible witnesses, grant or devise the custody and tuition of his child (which had never been married) altho' it be not born, during any part of the infancy of such child, to whomsoever he will, and such grant or devise heretofore or hereafter to be made, shall give the grantee or devisee the same power over the person of the child, as a guardian in common socage hath, and authorise him by action of ravishment, of ward or trespass, to recover the child, with damages for the wrongful taking or detaining him or her for his or her use; and for the same use to undertake the care and management, and receive the profits of the ward's estate, real and personal, and prosecute and maintain any such action and suits concerning the same, as a guardian in common socage may do. *(a)*

II. The high court of chancery, generally, and the court of every county and corporation in chancery, within the limits of their jurisdiction, shall have power from time to time to controul guardians, and hear and determine all matters between them and their wards; to require security of any guardian in socage, or statutory guardian, when that caution shall seem necessary for prevention of any damage his ward may suffer by neglect, mismanagement, or malversation; and if the security be refused or delayed, or if such guardian appear to have been guilty of a flagrant abuse of trust, to displace him and appoint another in his stead, and to give such directions, and make such rules and orders as they shall think fit, for the government, maintenance, and education of wards, and preservation of their estates, and for the conduct of guardians.

III. Every court appointing a guardian, shall take bond of him, with sufficient security for the faithful execution of his office; and if any court omit this duty, or take such security as shall not satisfy them of his sufficiency, which may be done as well by the sureties affidavit, as otherwise, the ward, by an action on the case against the judges or justices so

(a) 1785 c 86

making default, may recover ſo much of the damages which the guardian and ſecurity ſhall be anſwerable for, as theſe ſhall be unable to pay.

IV. If any guardian refuſe, or be unable to give the ſecurity required of him, the court may put the eſtate into the hands of a curator, the fitteſt they can prevail upon to undertake the care of it, to be accountable to them, and in that caſe ſhall not be ſponſible for his ability.

V. Every guardian or curator to be appointed by any court, ſhall, at the term or ſeſſion next afterwards, deliver into ſuch court, an inventory upon oath, of all the eſtate which he ſhall have received, to be entered of record in a ſeparate book; and ſuch guardian or curator, and every guardian heretofore appointed, ſhall exhibit to ſuch court once in every year, which if it be a county or corporation court, ſhall be in September, or at the next ſeſſion, if there be none in that month, or oftener, if he ſhall be ſpecially required, accounts of the produce of the eſtate, of the ſales and diſpoſition of ſuch produce, and of the diſburſements; which accounts ſhall be examined by the court, or by ſuch perſons as the court ſhall refer them to; and being found and certified or reported to be properly and fairly ſtated, and the articles thereof to be juſtified by the vouchers, and the report in caſe of a reference being approved and confirmed by the court, ſhall, with ſuch certificate or confirmation, be entered of record in the book aforeſaid; and if any article of ſuch accounts at any time afterwards be excepted to by the ward or his repreſentative, it ſhall be incumbent on him to prove or ſhew the falſity or injuſtice thereof, unleſs notice on his behalf ſhall have been given at the time of paſſing the accounts, that ſuch article would be excepted to, and a memorandum of that notice ſhall have been entered on record, or deſired to be entered.

VI. The court at any time when they ſhall know or have cauſe to ſuſpect that the ſurety of a guardian is failing, may require and compel ſuch guardian to give ſupplemental ſecurity, or if he refuſe or neglect to do ſo, may diſplace him.

VII. A guardian who ſhall not deliver in ſuch inventory, and render ſuch accounts as aforeſaid, ſhall, by order of the court to which he is amenable, be ſummoned, and if he remain in default, be compelled to perform his duty, or be diſplaced; for which purpoſe the ſummons or other proceſs from a county or corporation court may be directed to, and ſhall be executed by the ſheriff of any other county wherein the guardian may be found; and every judge or juſtice of the court ſitting therein, at any time during the term or ſeſſion in which the proceſs ought to have been ordered, if it be not ordered accordingly, ſhall be amerced.

VIII. If the diſburſements of the guardian being ſuitable to the eſtate and circumſtances of the ward, ſhall exceed the profits of his eſtate in any year, the balance with the allowance of the court, may be debited in the account of the ſucceeding year, and the balance appearing on the contrary ſide may be put out to intereſt for the benefit of the ward, upon ſuch ſecurity as the court ſhall approve, or the guardian, if it remain in his hands, ſhall account for the intereſt; to be computed from the time his accounts were or ought to have been paſſed.

IX. If any ſurety for a guardian by petition to the court before whom they were bound, ſetting forth that he apprehends himſelf to be in danger of ſuffering thereby, ſhall pray that he may be relieved, the court, after a ſummons to anſwer the petition, ſhall have been ſerved upon the guardian, or a copy of ſuch ſummons ſhall have been left at the place of his uſual abode, ſhall order him to give counter-ſecurity, or to deliver the ward's eſtate into the hands of the ſurety, or ſome other perſon, and in that caſe taking ſufficient ſecurity; or may make ſuch other order for the relief of the petitioner, as to them ſhall ſeem juſt.

X. The eſtate of a guardian not under a ſpecific lien, ſhall, after the death of the guardian, be liable for whatſoever may be due from the guardian on account of his guardianſhip, to his ward, before any other debt due from ſuch guardian. *(a)*

(a) 1785 c 61 § 50

XI. Every orphan who hath no eſtate, or not ſufficient for a maintenance out of th profits, ſhall, by order of the court of the county or corporation in which he or ſhe reſide be bound apprentice by the overſeers of the poor, until the age of twenty-one years, if a boy, or of eighteen years, if a girl, to ſome maſter or miſtreſs, who ſhall covenant to teach the apprentice ſome art, trade, or buſineſs, to be particularized in the indenture, as alſo, reading and writing, and if a boy, common arithmetic, including the rule of three, and to pay him or her twelve dollars at the expiration of the time; and the indentures of ſuch apprentices ſhall be filed in the office of the clerk of the county, and not transferable to any perſon whatſoever, without the approbation of the court. *(a)*

XII. Any guardian may, with the approbation of that court in which his appointment ſhall be recorded, and not otherwiſe, bind his ward apprentice to ſuch perſon for learning ſuch art or trade, and with ſuch covenants on the part of the maſter or miſtreſs, as the ſaid court ſhall direct; and every ſuch apprentice with the like approbation, or any apprentice bound by his father, may, with the approbation of the court of that county in which the father ſhall reſide, after he ſhall be ſixteen years of age, agree to ſerve until he ſhall be twenty-four years of age, or any ſhorter time, and ſuch agreement entered on record ſhall bind him. *(a)*

XIII. Where any perſon under the age of twenty-one years, is, or ſhall be ſeized, or poſſed of any lands, tenements, or hereditaments, in truſt, or by way of mortgage, the guardian of ſuch infant, upon petition of one or more of the parties intereſted, to the high court of chancery, by order of ſuch court, made after hearing the parties, may execute any ſuch deed, or perform any other ſuch act, as the truſtee or mortgagee, if he were of full age, might have executed or performed; and ſuch deed or other act ſhall be as valid, except that he ſhall not be bound by a warranty or other covenant contained in the deed. *(b)*

XIV. Alſo the ſaid court may in like manner empower ſuch guardian to make or take a ſurrender of a former leaſe, and to take or make a new leaſe, as the caſe may require, and as it ſhall ſeem moſt to the advantage of the infant, out of whoſe eſtate any fine that may be advanced, and all other juſt expences that may be incurred in order to obtain a new leaſe to him, ſhall be reimburſed; and the new leaſe ſhall not only be chargeable with ſuch fine and expences, but ſhall remain ſubject to all incumbrances which the leaſe ſurrendered would have been ſubject to.

XV. The court of every county, city, or borough, ſhall, at all times, receive the complaints of apprentices, being citizens of any one of the United States of America, who reſide within the juriſdiction of ſuch court, againſt their maſters or miſtreſſes, alledging undeſerved or immoderate correction, inſufficient allowance of food, raiment, or lodging, or want of inſtruction, and may hear and determine ſuch caſes in a ſummary way, making ſuch orders thereupon as in their judgment will relieve the party injured in future, or removing the apprentices, and binding them to other maſters or miſtreſſes, when it ſhall ſeem neceſſary; and may alſo, in the ſame manner, hear and determine complaints of maſters or miſtreſſes againſt their apprentices, for deſertion without good cauſe. *(c)*

XVI. In every caſe where ſuch as be within age may ſue, their next friends ſhall be admitted to ſue for them. *(d)*

XVII. The courts of huſtings in the cities of Williamſburg and Richmond, and borough of Norfolk, and all other incorporated towns, ſhall have the ſame power as is hereby given to the county courts. *(e)*

The repealing clauſe is as in the appendix No. 6.

December the 12th, 1794—but commenced March 1, 1795.

§ 1. EVERY guardian appointed by the laſt will and teſtament of any perſon which ſhall be legally proved and recorded in any court, ſhall before he exerciſes any

(a) 1785 c 86. *(b)* 1785 c 85 § 1 *(c)* 1785 c 86 § 2 *(d)* 1786 c 66 *(e)* 1785 c 86 § 3

authority over the minor or his eſtate. appear openly in ſuch court and declare his acceptance of the guardianſhip, which ſhall be recorded, and ſhall give bond with ſuch ſecurity as the court may approve of in the ſame manner as ſtatutory guardians, unleſs it is otherwiſe directed by the teſtator's will, and at the firſt or ſecond ſeſſion thereafter, he ſhall deliver into ſuch court an inventory upon oath of all the eſtate which he ſhall have received and within two ſucceſſive courts after the receipt of any other eſtate of the ward, an inventory of ſuch eſtate to be entered in the book directed to be kept concerning other guardians, and every teſtamentary guardian ſhall exhibit to ſuch court once in every year, which if it be a county or corporation court ſhall be in September, or at the next ſeſſion if there be none in that month, or oftener if ſpecially required by the court, accounts of the produce and profits of the eſtate of the ward, and of the ſales and diſpoſition of ſuch produce, and of the diſburſements; which accounts ſhall be examined by the court, or by ſuch perſons as the court ſhall refer them to, and being found and certified, or reported to be properly and fairly ſtated, and the articles thereof, to be juſtified by the vouchers, and the report in caſe of a reference being approved and confirmed by the court, ſhall with ſuch certificate or confirmation be recorded in the book aforeſaid: And if any article of ſuch accounts at any time afterwards be excepted to by the ward or his repreſentatives, it ſhall be incumbent on him to prove or ſhew the falſity or injuſtice thereof, unleſs notice on his behalf ſhall have been given at the time of paſſing the accounts that ſuch article would be excepted to, and a memorandum of that notice and the exception ſhall have been entered on record.

II. The court aforeſaid if a teſtamentary guardian ſhall appear to have been guilty of a flagrant abuſe of truſt, may diſplace him and appoint ſome other perſon or perſons under the like rules and regulations as are preſcribed by law in caſes of ſtatutory guardians.

III. Every teſtamentary guardian who ſhall fail or neglect to appear before the court in which the laſt will and teſtament of his teſtator ſhall be proved and recorded, within the ſpace of ſix months thereafter, may be ſummoned and compelled to declare his acceptance or renunciation of the truſt, and if every of the guardians appointed in any ſuch laſt will and teſtament ſhall renounce the ſame, which renunciation ſhall be recorded, the ſaid court may and ſhall thereafter proceed to appoint and qualify ſome other perſon or perſons to the guardianſhip, in like manner as if no ſuch teſtamentary guardian had been nominated in ſuch laſt will and teſtament.

IV. A teſtamentary guardian who ſhall not deliver in ſuch inventory and render ſuch accounts as aforeſaid, ſhall by order of the court to which he is amenable, be ſummoned, and if he remain in default, be compelled to perform his duty or be diſplaced, for which purpoſe the ſummons or other proceſs from a county or corporation court may be directed to, and ſhall be executed by the ſheriff of any other county wherein the guardian may be found; and every juſtice of the court ſitting therein at any time during the term or ſeſſion in which the proceſs ought to have been ordered, if it be not ordered accordingly, ſhall be amerced.

V. The eſtate of a teſtamentary guardian not under a ſpecific lien, ſhall after the death of the guardian be liable to whatſoever may be due from the guardian to his ward, before any other debt due from ſuch guardian.

VI. If a teſtator ſhall omit to direct the ſum of money, or the fund to be applied to the maintenance and education of his infant, and if the diſburſements of the teſtamentary guardian, or other guardian being ſuitable to the eſtate and circumſtances of the ward, ſhall exceed the profits of his or her eſtate in any year, the balance with the allowance of the ſaid court may be debited in the account of a ſucceeding year, and paid out of the perſonal eſtate of the infant, and ſo much and ſuch part thereof may with the approbation of the court, be ſold at public auction to the higheſt bidder, after reaſonable notice has been given of the time and place of ſuch ſale for that purpoſe as ſhall be neceſſary, and the ba-

lance appearing on the contrary ſide may be put out to intereſt for the benefit of the ward, upon ſuch ſecurity as the court ſhall direct and approve, or the guardian if it remain in his hands ſhall account for the intereſt, to be computed from the time his accounts were or ought to have been paſſed.

VII. It ſhall be lawful for the teſtamentary guardian, provided there be no prohibition in the laſt will and teſtament, to make a leaſe of any lands, tenements, or hereditaments belonging to his ward, reſerving the beſt annual rent and moſt beneficial covenants for any term, ending when the ward ſhall arrive at the age of twenty-one years, or continuing beyond that time as the ward ſhall elect.

VIII. And it ſhall be lawful for every ſtatutory guardian in like manner to make a leaſe of any lands, tenements or hereditaments, belonging unto his ward, for any term, ſo that the ſame does not exceed that period, when his ſaid ward ſhall arrive at the age of fourteen years.

IX. A teſtamentary guardian if his ward be a truſtee or mortgagee of any lands, tenements or hereditaments, upon petition of one or more of the parties intereſted, to the high court of chancery, by order of ſuch court to be made after hearing, may execute any deed, or perform any other act, which the truſtee or mortgagee if of full age might or could execute or perform, and ſuch deed or other act ſhall be valid, except that he ſhall not be bound by a warranty or other covenant contained in the deed.

X. A teſtamentary guardian ſhall have the power under the ſame regulations to make or take a ſurrender of a former leaſe, and to take or make a new leaſe as are preſcribed and granted to a ſtatutory guardian, unleſs inconſiſtent with the laſt will and teſtament, ſubject however to be determined or continued by the ward after he or ſhe arrives to full age.

XI. It ſhall be lawful for the court having cognizance of the accounts of any guardian, whether ſtatutory or teſtamentary, upon paſſing the ſame, to make ſuch allowance to the guardian as it ſhall deem a reaſonable compenſation for his attention, care, and trouble.

XII. Where an orphan ſhall have an eſtate, the profits of which are inſufficient for his or her ſupport, and yet is of ſuch tender years, that the overſeers of the poor cannot prevail upon a proper perſon to accept of the ſame orphan as an apprentice, it ſhall and may be lawful for the guardian or curator, with the approbation of the court, to take from the perſonal eſtate of his ward ſuch ſums of money as are neceſſary for the immediate ſupport of the orphan, until he or ſhe ſhall arrive at an age when the overſeers of the poor can find a ſuitable maſter or miſtreſs for him or her. The courts of each county reſpectively ſhall have full power at their diſcretion, to direct the overſeers of the poor to covenant with the maſter or miſtreſs of any apprentice bound to ſerve under their order, that a ſum not exceeding twenty dollars ſhall be paid to the ſaid apprentice, inſtead of the ſum of twelve dollars heretofore allowed by law.

HABEAS CORPUS.

December the 19th, 1792—but commenced Oct. 1, 1793.

§ I. WHENSOEVER a habeas corpus ſhall be ſerved by delivering it to the officer or other perſon to whom it is directed, or by leaving at the jail or priſon in which the party ſuing it out is detained, unleſs the warrant commitment plainly and ſpecially expreſs the ſame to have for treaſon or felony, if the charges of bringing the priſoner, to be aſcertained by the court or judge who awarded the writ, and thereon endorſed, not exceeding ſeventeen cents per mile, be paid or tendered, and ſufficient ſecurity to pay the

charges of carrying him back, in caſe he be remanded, and that he will not eſcape by the way, be given, then the officer or his deputy, within three days after ſuch ſervice, or if the priſoner is to be brought more than twenty miles, within ſo many days more as will be equal to one day for every twenty miles of ſuch further diſtance, ſhall make return of the writ, and bring the body of the priſoner, or cauſe it to be brought before the proper judge or judges according to the command thereof; and then ſhall likewiſe certify the true cauſes of his detainer or impriſonment. *(a)*

II. Every ſuch writ ſhall be ſigned by him who awards it. *(a)*

III. And if any perſon ſhall be, or ſtand committed or detained as aforeſaid for any crime, unleſs it be for treaſon or felony, plainly expreſſed in the warrant of commitment, in the vacation time, the priſoner not being convict, or in execution by legal proceſs, or any one on his behalf may appeal and complain to the judge of the high court of chancery, or any judge of the general court, who, at the requeſt of ſuch priſoner, or other perſon on his behalf, atteſted by two witneſſes preſent at the delivery thereof, is hereby authoriſed upon view of a copy of the warrant of commitment or detainer, or otherwiſe upon affidavit made, that ſuch copy was deſired to be given by him in whoſe cuſtody the priſoner is detained, to award and grant a habeas corpus, to be directed to the officer in whoſe cuſtody the party committed or detained, ſhall be, returnable immediately before the ſaid judge, or any other judge of one of the ſaid courts; and upon ſervice thereof as aforeſaid, the officer or his deputy, in whoſe cuſtody the party is ſo committed or detained, ſhall within the times before reſpectively limited, bring the priſoner before the court, or one of the judges thereof before whom the writ is made returnable, or in caſe of his abſence, before any other of them, with the return of the writ, and the true cauſes of commitment and detainer; and thereupon the judge before whom the priſoner ſhall be brought, ſhall, within two days thereafter, diſcharge him from impriſonment, taking his recognizance, with ſurety in any ſum, according to the diſcretion of the judge, having regard to the circumſtances of the priſoner and nature of the offence, for his appearance in the court of the diſtrict the term following, or in ſome other court where the offence is properly cognizable, as the caſe ſhall require; and then alſo certify the ſaid writ with the return thereof, and the ſaid recognizance into the ſaid court where ſuch appearance is to be made, unleſs it ſhall appear to the judge, that the party ſo committed is detained upon a legal proceſs, order, or warrant, out of ſome court that hath juriſdiction of criminal matters, or by ſome warrant ſigned and ſealed with the hand and ſeal of any of the ſaid judges, or ſome juſtice of the peace, for ſuch matters or offences, for the which, by the law, the priſoner is not bailable. *(a)*

IV. If any perſon ſhall have wilfully neglected, by the ſpace of two terms after his impriſonment, to pray a habeas corpus for his enlargement, ſuch writ ſhall not be granted him in vacation in purſuance of this act. *(a)*

V. Any officer neglecting or refuſing to make the return aforeſaid, or to bring the body of the priſoner according to the command of the writ within the time aforeſaid, or not delivering a true copy of the warrant of commitment and detainer within ſix hours after demand thereof made, to the priſoner or perſon demanding it on his behalf, which copy the officer or his deputy is hereby required to deliver, ſhall forfeit to the priſoner three hundred dollars; to recover which the right of action ſhall not ceaſe by the death of either or both the parties. *(a)*

VI. No perſon who ſhall have been delivered upon a habeas corpus, ſhall afterwards be impriſoned or committed for the ſame offence, otherwiſe than by the order or proceſs of the court wherein he ſhall be bound by recognizance to appear, or ſome other court having juriſdiction of the cauſe. *(a)*

VII. A citizen of this commonwealth committed to priſon in cuſtody of an officer for

(a) May 1784 c 45.

any criminal matter, ſhall not be removed from thence into the cuſtody of another officer, unleſs it be by habeas corpus, or ſome other legal writ, or where the priſoner ſhall be delivered to the conſtable, or other inferior officer, to be carried to ſome common jail, or ſhall be ſent by warrant of an overſeer of the poor to ſome common work-houſe, or ſhall be removed from one place to another, within the ſame county, in order to his diſcharge or trial in due courſe of law; or in caſe of ſudden fire or infection, or other neceſſity, or where the priſoner ſhall be charged by affidavit with treaſon, felony, or other crime, alledged to be done in any other of the United States of America; in which laſt caſe he ſhall, on demand from the executive authority of the ſtate from which he fled, be ſent thither in cuſtody by order of the general court, or warrant of any two judges thereof in vacation time, or may be bound by recognizance with ſureties before them, to appear there, whichſoever ſhall ſeem moſt proper, if the ſaid court or judges, upon conſideration of the matter, ſhall think he ought to be put upon his trial. *(a)*

VIII. Any perſon as aforeſaid, may move for and obtain his habeas corpus as well out of the high court of chancery as out of the general court, or out of the court of that diſtrict wherein he ſhall be confined. And if any judge of either of the ſaid courts in the vacation time, upon view of the copy of the warrant of commitment or detainer, or upon affidavit made, that ſuch copy was denied as aforeſaid, ſhall refuſe any writ of habeas corpus, by this act required to be granted, being moved for as aforeſaid, ſuch judge ſhall be liable to the action of the party grieved. *(b)*

The repealing clauſe is, as in the appendix No. 10.

HARBOUR-MASTERS.

November the 25th, 1785—but commenced January the 1ſt, 1786.

§ I. WHEREAS it is repreſented that the appointment of harbour-maſters would tend to the preſervation of order and regularity in the ſeveral ports and harbours within this commonwealth:

II. The county and corporation courts within this ſtate, ſhall, and they are hereby authoriſed and empowered, to appoint ſo many perſons as they may think neceſſary, to act as harbour-maſters within their reſpective juriſdictions. And the perſon or perſons ſo to be appointed, ſhall, previous to the entering on the ſaid office, take the following oath before their county or corporation court: "I do ſwear, that I am a citizen "of the commonwealth of Virginia, and that I will well and truly perform the duty of "harbour-maſter to the beſt of my ſkill and judgment, without favour, affection, or par-"tiality. So help me God."

III. The harbour-maſters to be appointed by virtue of this act, ſhall have full and ample power to cauſe all ſhips and other veſſels that may come within his diſtrict, to moor in ſuch places as he ſhall judge moſt conducive for the general ſafety, and ſhall moreover direct the maſters or commanders of veſſels to rig in their jib-booms, or any other ſpars which may tend to obſtruct the navigation. Any maſter or commander refuſing to obſerve and comply with the ſaid directions, ſhall forfeit and pay the ſum of fifteen pounds, to the uſe of the commonwealth, and ſhall moreover be ſubject for any damages that may accrue in conſequence of ſuch refuſal, to be recovered in any court of record within this commonwealth.

IV. The harbour-maſter ſhall cauſe every ſhip or other veſſel that may come within his diſtrict, to be properly moored within twenty-four hours after their ſeveral arrivals. Any harbour-maſters failing to give directions for the mooring of any veſſels within the time

(a) May 1784 c 35—Conſtitution of U. S. Art. 4 § 2. *(b)* May 1784 c 35.

proſcribed by this act, ſhall forfeit and pay fifteen pounds, for the uſe of the commowealth, to be recovered by motion, before the county or corporation court (as the caſe may be) on ten days previous notice, and ſhall morever be liable to the action of the party injured for any damages ſuſtained in conſequence of ſuch neglect. And the harbour-maſters ſhall moreover attend to the unmooring of all ſhips and other veſſels within their reſpective diſtricts; and in caſe any veſſel moored, ſhall, by ſtreſs of weather or other accident, be drove from her mooring, the harbour-maſter ſhall attend to the re-mooring the ſame, and be entitled to half-fees for ſuch ſervice.

V. The harbour-maſters ſhall demand, and be entitled to receive from all maſters or commanders of ſquare-rigged veſſels, the ſum of ten ſhillings, and for all ſchooners and ſloops, the ſum of ſix ſhillings, and no more: *Provided nevertheleſs*, That no maſter or commander of any river or bay craft, ſhall be ſubject to the payment of any fee by this act impoſed.

HEMP.

December the 24th, 1790.

§ I. WHEREAS it is repreſented to this preſent general aſſemby, that great loſs and inconvenience hath been ſuſtained on account of the preſent mode eſtabliſhed by law for the inſpection of hemp, particularly in permitting the inſpector to clean that, which may be refuſed by him. For remedy whereof, *Be it enacted*, That from and after the paſſing of this act, public warehouſes for the reception of hemp, ſhall be kept at the places herein after mentioned, that is to ſay: At or near the city of Richmond and towns of Alexandria, Frederickſburg, Mancheſter, in that part of the town of Peterſburg, included in the county of Dinwiddie, and at the Great Falls in the county of Loudoun; and it ſhall and may be lawful for the juſtices of the courts of ſuch counties, wherein ſuch inſpections are eſtabliſhed, and they are hereby required upon the receipt of this act, to provide good and ſufficient warehouſes for the reception of all hemp which may be brought to the ſame; and the ſaid courts ſhall, and they are hereby required and empowered to agree with ſome perſon or perſons, to erect or rent good and ſufficient warehouſes for the reception and preſervation of all hemp which may be brought to the ſame, and ſhall certify the charges thereof to the treaſurer of this ſtate, who is hereby directed to pay the ſame out of the aggregate fund.

II. The courts of the counties wherein any ſuch inſpection for the receipt of hemp ſhall be eſtabliſhed by this act, are hereby required to appoint a fit and able perſon, not being concerned in mercantile or rope-making buſineſs, to have the care and charge of the ſaid warehouſe, whoſe duty it ſhall be carefully to inſpect and examine all hemp which ſhall be brought to his warehouſe, ſeparating that which ſhall be ſtrong, dry, and ſound, from that which may be unſound and unfit for exportation, and when ſo ſeparated, ſhall be diſtinguiſhed in the note by him given, in manner following, that is to ſay: All that which ſhall appear clean, dry, and well conditioned, ſhall be termed firſt quality; and that which may appear dry, ſtrong and well conditioned, although not perfectly clean, ſhall be termed ſecond or third rate, according to the cleanneſs of the ſame; but if it ſhall appear on the offering of any hemp for inſpection, that it contains ſo great a quantity of traſh or unſound, ſo as to render it unfit for manufacturing or exportation, the inſpector ſhall not give his note for the ſame, but the owner ſhall be at liberty to diſpoſe of it as he may think proper.

III. The inſpector at any of the warehouſes by this act eſtabliſhed, ſhall and may de-

mand and receive for his ſervices as inſpector, for every groſs ton the ſum of fifteen ſhillings, and for every ton by him refuſed, the ſum of ten ſhillings, and ſo in proportion for any leſſer quantity, to be paid down to the inſpector on delivering the note, or by the perſon whoſe hemp may be refuſed, (as the caſe may be) one half of which ſum ſhall be for the ſervices of the inſpector, and the other one half ſo received, ſhall be paid to the treaſurer of this commonwealth, or to the owner of the warehouſe, (as the caſe may be) quarterly, under the penalty of forfeiting to the commonwealth, or to the owner of ſuch warehouſe three hundred pounds, recoverable on motion before any court of record within this commonwealth, giving ten days previous notice of ſuch motion.

IV. All hemp ſound and merchantable, diſtinguiſhed as above directed, ſhall by the inſpector be re-prized in bale boxes three feet two inches long in the clear, three feet deep, one foot eight inches at bottom, and two feet wide at the top, with a label annexed thereto, ſtamped with the quality and weight of each bale, and the owner's name, which quality, weight and owner's name ſhall be entered in a book kept for that purpoſe, as well as the weight and owner's name, of any hemp by him refuſed; and he is hereby required to give a certificate for all hemp by him paſſed in form following, viz.

"I A. B. do certify, that C. D. hath depoſited tons or pounds of hemp (as "the caſe may be) of firſt, ſecond or third rate, (as the caſe may be) paſſed inſpection at "the warehouſe of , of which I am inſpector. Witneſs my hand, this "day of in the year

V. The inſpectors appointed by this act, previous to the execution of their office, ſhall take the following oath or affirmation, (as the caſe may be) viz.

"I A. B. do ſolenmly ſwear or affirm, (as the caſe may be) diligently to examine and "receive all hemp brought to the warehouſe where I am inſpector, and that I will not paſs "any hemp that is not in my judgment dry, ſound, well conditioned, and merchantable, "nor paſs or mark any bale of hemp contrary to the intent and meaning of the act, intitul-"ed "an act, to regulate the inſpection of hemp," nor refuſe any hemp that is in my "judgment dry, ſound, well conditioned, and fit for exportation, nor fail to enter in a book "as directed by this act, the weight of all hemp by me ſo paſſed or refuſed, nor alter or "give out any hemp, other than that for which the receipt to be taken was given, but that "I will in all things well and faithfully diſcharge my duty as an inſpector, according to "the beſt of my ſkill and judgment, and agreeably to the intention of the ſaid recited act, "without fear, favour, affection, malice or partiality. So help me God."

VI. If any court ſhould fail or refuſe in providing ſuch houſes, ſcales, ſcrews, or other neceſſary conveniences at the places appointed by this act, which they are hereby authoriſed and required to do out of the aggregate fund aforeſaid, they ſhall forfeit and pay the ſum of three hundred pounds, to be recovered with coſts by action of debt or information againſt ſuch juſtices jointly, one moiety to the proſecutor, and the other moiety to the uſe of the commonwealth: The act, intituled, "An act concerning the inſpection of hemp," ſhall be, and the ſame is hereby repealed.

HIGH COURT OF CHANCERY. *See Courts.*

HIGHWAYS *See Roads—See Stealing Tobacco on the Highway, under the head of Tobacco.*

HOG-STEALING.

December the 8th, 1792—but commenced October the 1st, 1793.

§ I. IF any perſon not being a ſlave, ſhall ſteal any hog, ſhoat, or pig, he or ſhe, ſhall, for the firſt offence, receive on his or her bare back, twenty-five laſhed well laid on, at the public whipping poſt of the county where he or ſhe ſhall be convicted, or pay thirty dollars, to the uſe of the ſame county, towards leſſening that county levy, and ſhall moreover pay eight dollars for every ſuch hog, ſhoat, or pig, one half to the owner thereof, and the other half to the informer, to be recovered with coſts at the ſuit of the informer, by action of debt in any county court within this commonwealth; and in all ſuits to be brought, or informations filed, againſt any perſon not being a ſlave, for hog-ſtealing, it ſhall be lawful for the court to rule the defendant to give ſpecial bail, and to commit him or her to priſon, until he or ſhe ſhall give ſuch bail. *(a)*

II. And if any perſon other than a ſlave, ſhall offend a ſecond time, and be thereof convicted, he or ſhe, ſhall ſtand two hours in the pillory, on a court day at the courthouſe of the county where ſuch conviction ſhall be, and have both ears nailed thereto, and at the end of two hours have the ears cut looſe from the nails, which judgment the reſpective county courts of this commonwealth, are hereby empowered to give, and to award execution thereupon: Saving always to the party concerned, liberty of appeal to the diſtrict court within whoſe juriſdiction ſuch county ſhall be; ſuch party giving bond with good ſecurity, in the ſum of one hundred dollars, for his or her perſonal appearance in the ſaid court, according to the appeal, and to perform and abide their award; and moreover, every ſuch offender ſhall pay and ſatisfy eight dollars for every ſtolen hog, ſhoat, or pig, to the owner or informer, to be recovered as aforeſaid. And if there be ſeveral offenders in one and the ſame fact, although but one hog, ſhoat, or pig be ſtolen, each perſon may be particularly proſecuted, and upon conviction, ſhall be adjudged to ſuffer the puniſhment, and pay the whole fine as aforeſaid. *(b)*

III. If any ſervant ſhall be convicted of hog-ſtealing, his or her maſter or owner, ſhall pay and ſatisfy eight dollars, to be recovered and divided as aforeſaid, whether it be for the firſt or ſecond offence, and ſhall be repaid for the ſame, and coſts of ſuit, by further ſervice of ſuch offender, after his or her time, due by indenture, contract, or former judgment ſhall be expired, at the rate of three dollars for one month's ſervice, and judgment ſhall be entered up accordingly.

IV. When any ſlave or ſlaves ſhall hereafter ſteal any hog, ſhoat, or pig, it ſhall be lawful for any juſtice of peace of the county where ſuch offence ſhall be committed, upon complaint or information thereof to him made, to cauſe ſuch offender or offenders, and the witneſs or witneſſes, to come before him; and if upon examination, any ſlave or ſlaves appear to be guilty, to commit him, her, or them to priſon, or bind every ſuch offender with ſecurity, to appear perſonally, before the court next thereafter to be held for his county, to anſwer ſuch complaint or information, and to abide the judgment of the ſaid court; and the juſtices thereof are hereby required to direct the perſon appointed to proſecute for the commonwealth in the ſame court to exhibit a charge or complaint in writing againſt ſuch ſlave or ſlaves for ſuch offence, whereupon it ſhall be lawful for the ſaid court to hear and determine the matter of ſuch charge or complaint without any jury, and to receive as evidence againſt the ſlave or ſlaves ſo charged, the confeſſion of the offender, the oath of one or more credible witneſſes, or ſuch teſtimony of negroes, mulattoes or Indians, bond or free, as to them ſhall ſeem convincing; and if, in the opinion of ſuch court, the ſlave or ſlaves ſo charged, is, or are guilty, every ſuch offender, for the firſt offence, ſhall receive thirty-nine laſhes on his or her bare back, well laid on, at the public whipping poſt; and upon a ſecond conviction, ſhall ſtand two hours in the pillory, with both ears nailed thereto, and

(a) 1748 c 33—1769 c 30 § 2 *(b)* 1748 c 33

then cut looſe, as is herein before directed. And if any negro, mulatto, or Indian, ſhall, upon due proof made, or pregnant circumſtances appearing to any county court, be found to have given falſe teſtimony, on the trial of any ſlave for the firſt or ſecond offence of hog-ſtealing, every ſuch offender, without further trial, ſhall be by ſuch court, ordered to receive the ſame corporal puniſhment as the ſlave tried for hog-ſtealing would receive upon conviction. And the firſt juſtice in commiſſion, ſitting at ſuch trial, ſhall, before the examination of ſuch negro, mulatto, or Indian, charge ſuch evidence to ſpeak the truth, and ſhall alſo inform him or her of the conſequence of giving falſe teſtimony.

V. If any perſon whatſoever, ſhall be the third time convicted of hog-ſtealing, every ſuch offender ſhall be adjudged a felon.

VI. If any perſon ſhall bring, or cauſe to be brought to his or her own houſe, or any other houſe, or on board of any ſhip, ſloop, or other veſſel, any hog, ſhoat, or pig, without ears, or ſhall receive any ſuch, and not immediately diſcover the ſame to a juſtice of the peace, he or ſhe ſo offending, ſhall be adjudged a hog-ſtealer. *Provided nevertheleſs*, That any perſon may bring, or cauſe to be brought to his or her own, or any other houſe, or on board any ſhip, ſloop, or other veſſel, his or her own ſwine, though without ears, he or ſhe proving the ſame to be his or her property.

VII. All tributary Indians keeping ſwine, ſhall give them the ſame mark, which hath been, or by the next adjacent county court ſhall be allowed to the town to which ſuch Indians reſpectively belong; and if any perſon, not being an Indian, ſhall buy or receive from any Indian, any pork, and cannot prove ſuch pork to be of the proper mark of the town of Indians, to which the Indian of whom the ſame was bought or received, ſhall belong, he or ſhe ſo offending, ſhall forfeit and pay twenty-five dollars, one half to the commonwealth, and the other half to the informer; to be recovered with coſts, by action of debt, in any court of record within this commonwealth.

The repealing clauſe is as in the appendix No. 20.

HOMICIDE.

November the 18th, 1789.

IN caſe it be found by the country, that any man by misfortune, or in his own defence, or in other manner, without felony, did kill another, he ſhall be acquitted.

HORNED CATTLE. *See Treſpaſſes, Incloſures and Infection of Horned Cattle.*

HORSES.

December the 24th, 1792—but commenced Oct. 1, 1793.

NO perſon ſhall ſuffer a ſtoned horſe of the age of two years, whereof he is owner, or hath the keeping, to run at large out of the encloſed ground of the owner or keeper; and whoſoever ſhall wilfully or negligently do ſo after having been admoniſhed to confine ſuch horſe, ſhall forfeit and pay twenty dollars to him who will ſue for it, and double that ſum for any ſuch tranſgreſſion after one conviction; and if after a ſecond conviction, the ſame horſe be found ſo running at large, it ſhall be lawful for the perſon who will take him up, to retain him to his own uſe. *(a)*

The repealing clauſe is as in the appendix No. 21.

(a) 1785 c 73 § 1

HORSE-STEALING.

December the 10th, 1792—but commenced Oct. 1, 1793.

§ I. IF any perſon do felonioufly take, or ſteal, any horſe, mare or gelding, foal, or filly, the perſon ſo offending, ſhall not be admitted to have or enjoy the benefit of clergy, but ſhall be utterly excluded thereof, and ſhall ſuffer death as in caſe of felony. *(a)*

II. And for as much as felons are much encouraged to ſteal horſes, becauſe a great num- of perſons make a trade to receive and buy of ſuch felons, the horſes by them felonioufly taken, and alſo do make it their buſineſs to conceal ſuch offenders after the ſaid fact, knowing ſuch felonies to be by them committed: If any perſon or perſons, ſhall receive or buy any horſe, that ſhall be felonioufly taken or ſtolen from any other perſon, knowing the ſame to be ſtolen, or ſhall harbour or conceal any horſe ſtealer, knowing him, her, or them to be ſo, ſuch perſon or perſons ſhall be taken and received as acceſſory or acceſſories to the ſaid felony; and being of either of the ſaid offences legally convicted, by the teſtimony of one or more credible witneſs or witneſſes, ſhall incur and ſuffer the pain of death as a felon convict. *(b)*

III. *Provided always*, That if any ſuch principal felon cannot be taken, ſo as to be proſecuted and convicted of any ſuch offence, yet, nevertheleſs, it ſhall and may be lawful to proſecute and puniſh every ſuch perſon and perſons, buying or receiving any horſes ſtolen by any ſuch principal felon, knowing the ſame to be ſtolen, as for a miſdemeanor, to be puniſhed by fine and impriſonment, or other ſuch corporal puniſhment as the court ſhall think fit to inflict, although the principal felon be not before convict of the ſaid felony; which ſhall exempt the offender from being puniſhed as acceſſory, if ſuch principal felon ſhall be afterwards taken and convicted. *(c)*

IV. Whoſoever ſhall apprehend one charged with horſe-ſtealing, if the priſoner be convicted of that crime, ſhall be entitled to a reward of twenty dollars from the treaſury, upon a certificate from any of the diſtrict courts of this ſtate, that the claimant was the apprehender, and either that he was not examined as a witneſs at the trial, or that the other evidence then given was ſufficient without his teſtimony, to convict the priſoner. *(d)*

V. The legal repreſentative of any perſon killed in endeavoring to apprehend any horſe-ſtealer, ſhall receive the ſum of one hundred and ſeventy dollars, to be paid by the treaſurer, upon the order of the auditor, which he is hereby directed to iſſue, upon a certificate delivered under the hands and ſeals of two juſtices of the peace of the county where the fact was committed, that ſuch perſon was ſo killed; which certificate the ſaid juſtices, upon ſufficient proof before them made, are required immediately to give. *(e)*

The repealing clauſe is the ſame, in ſubſtance, with No. 18, in the appendix.

HOSPITAL. See Ideots and Lunatics—See Marine Hoſpital.

HUNTING AND RANGING.

December the 4th, 1792—but commenced Oct. 1, 1793.

§ I. IF any perſon or perſons, ſhall at any time ſhoot, hunt, or range upon the lands or tenements, or fiſh, or fowl in any creeks or waters included within the bounds of any other perſon or perſons, without licenſe firſt obtained of the owner of ſuch lands, every ſuch offender ſhall forfeit and pay three dollars for every ſuch offence, to be recovered

(a) 37 Hen. VIII c 8—2 & 3 Edw. VI. c 33. *(b)* 1748 c 34 § 14 *(c)* 1748 c 34 § 15 *(d)* 22 Geo. II. c 34 § 11—1786 c 47—1789 c 1 *(e)* 22 Geo. II. c 34 § 11.

with costs, before any justice of the peace of the coun where the offence shall be committed, by the informer, to his own use; in which information, the confession of the party accused, or the oath of one credible witness, shall sufficient evidence. And where the owner of the land shall prosecute for any unlawful shooting, hunting, ranging, fishing, or fowling within his bounds, the oath of such owner shall be sufficient evidence to convict the offender: But in that case the penalty shall be paid to the overseer of the poor of the district wherein the offender resides, to the use of the poor of such district; and moreover every such offender shall be liable to the action of the party grieved, at the common law, for his or her damages. *(a)*

II. IF any person shall be the third time convicted of any such offence as aforesaid, the justice of peace before whom such conviction shall be, over and above giving judgment for the aforesaid forfeiture, shall require such offender to enter into recognizance, with one or more sufficient sureties, to the governor, for the time being, and his successors, in the penalty of thirty dollars for his good behaviour, during one whole year from thence next following; or in case of refusal so to do, shall commit him to the common jail, there to remain until he gives such security, or until the expiration of one month. And if after such surety given, such offender shall be convicted of shooting, hunting, ranging, fishing, or fowling unlawfully as aforesaid, within the time in his recognizance limited, such offence shall be breach of the good behaviour, and the penalty of his recognizance shall be forfeited to the overseers of the poor, for the use of the poor of the district wherein such conviction shall be.

The repealing clause is, in substance, as in the appendix No. 21.

IDEOTS AND LUNATICS.

December the 24th, 1792—but commenced October the 1st, 1793.

§ I. THE present directors of the hospital for the reception of persons of unsound minds, and their successors, to be chosen when vacancies happen, by the governor, with the advice of the council, are hereby constituted and appointed a body politic and corporate, to have perpetual continuance, by the name of the directors of the hospital for the maintenance and cure of persons of unsound minds; and by that name may sue, and be sued, and may and shall have, and use a common seal, and are enabled to take and hold any estate, real or personal, given or to be given to the said hospital, or to themselves, for the use thereof, so as the annual revenue, or income of such donations, exceed not three thousand dollars; any law or statute to the contrary, notwithstanding. *(b)*

II. The said directors shall and may so often as it may be necessary, choose a president to continue in office until his death, resignation or removal; and they, or any seven of them, shall form a court, and shall from time to time ordain regulations for the government of the said hospital, and appoint a keeper and matron thereof, with nurses and guards when they shall be necessary; and provide for the accommodation, maintenauce, and cure of the patients remaining and to be received therein. *(c)*

III. By warrant to be directed to the sheriff or serjeant, a justice of the peace shall order to be brought before him, any person whose mind from his own observation, or the information of others, he shall suspect to be unsound, and with two other justices, who at his request, shall associate with him, shall enquire into the state of such person's mind, and the said justices shall write down as well what shall appear to themselves, as what shall be testified by witnesses, touching the supposed insanity; and if two of them adjudge the party to be such a person as ought to be confined in the hospital, and some friend will not become bound with surety, to restrain and take proper care of him or her, until the cause

(a) 22 Geo. II. c 2. § 63 & 64. (b) 1785 c 87—1788 c 56 (c) 1785 c 87 § 1

for confinement ſhall ceaſe, the ſaid juſtsces, or two of them, ſhall order the inſane to be removed to the ſaid hoſpital and there received, and for that end direct a warrant to the ſheriff or ſerjeant, and a mittimus to the ſaid keeper, tranſmitting therewith to the latter, the examinations of the witneſſes, and a relation of ſuch facts as the ſaid juſtices ſhall think pertinent to the ſubject, to be laid before the directors. *(a)*

IV. The ſaid keeper immediately after the perſon removed ſhall be delivered to him, the receipt of whom he ſhall acknowledge, in a writing ſigned by him, and delivered to the ſheriff or ſerjeant, ſhall inform the preſident thereof, who ſhall require his colleagues to meet as ſoon as may be, and at ſuch meeting, which ſhall not unneceſſarily be delayed, the directors, if having conſidered the caſe, they concur in opinion with the juſtices, ſhall regiſter the inſane as a patient, but they may at any time afterwards deliver him or her to a friend, becoming bound to reſtrain and take care of him or her, in the ſame manner as the juſtices might have done. *(a)*

V. If upon the examination of any perſon charged with being a lunatic or ideot, or otherwiſe inſane, the ſaid court ſhall be of opinion, that he or ſhe ought not to be confined, it ſhall be lawful for the ſaid court forthwith to diſcharge him or her. *(b)*

VI. When any inſane perſon ſhall be removed as aforeſaid to the ſaid hoſpital, the juſtices before whom ſuch perſon was examined, ſhall cauſe a certificate of the eſtate of ſuch inſane perſon (if any there be) and of the probable annual profits ariſing therefrom, to be ſent to the ſaid directors, together with the proceedings before directed, to be tranſmitted to them; and ſhall alſo certify ſuch removal, and the inſane's eſtate, to the next court to be holden for the county, city, or borough, whence ſuch removal was. On receipt of ſuch certificate, it ſhall be lawful for ſuch court, to appoint a committee, in whoſe hands ſhall be committed ſuch inſane's eſtate, for the ſafe keeping and good management thereof; which committee ſhall have power to ſue for, and recover all debts due to, and be liable to be ſued for all debts due from ſuch inſane perſon, in the ſame manner as executors to deceaſed perſons are or may be; and out of the profits of ſuch inſane perſon's eſtate, the ſaid court may direct to be defrayed, the expences attending, as well the removal as the annual ſupport of every ſuch perſon while remaining in the ſaid hoſpital, to be paid to the ſaid court of directors. *Provided*, That ſuch county, city, or borough court, may allow a reaſonable ſupport to the family of ſuch inſane perſon (if any he hath) out of his eſtate, ſo that neither the expences attending ſuch inſane perſon, nor the allowance to his family, ſhall defeat the claims of his or her creditors. Upon the appointment of any ſuch committee by the court as aforeſaid, ſuch court ſhall take bond, with good ſecurity, in a ſufficient penalty, for the true and faithful performance of the truſt thereby repoſed in them; and in caſe of failure in the examining juſtices to perform the duties by this act enjoined, or in caſe of failure in any ſuch court, to appoint committees as aforeſaid, and to take ſuch bond and ſecurity as is hereby required, the juſtices in either caſe ſo refuſing or neglecting, ſhall forfeit and pay for every ſuch refuſal or neglect, one hundred and fifty dollars, to be proſecuted for, and recovered by the attorney general in the name of the ſaid court of directors, for the uſe of the commonwealth. *(c)*

VII. If any perſon poſſeſſing lands or other property in this commonwealth, ſhall have removed, or ſhall hereafter remove out of the ſtate, the high court of chancery, or the court of the county or corporation in which the greater part of ſuch perſon's property is, (on ſatisfactory proof being made that ſuch perſon has become inſane) ſhall and may appoint a committee, into whoſe hands ſhall be committed ſuch inſane's eſtate, for the ſafe keeping thereof, and for the neceſſary ſupport of ſuch inſane, and his or her family, which committee ſhall give the like ſecurity, have the ſame powers, and be governed by the ſame rules as are preſcribed for the committees appointed by virtue of a certificate from juſtices of the peace, who have examined inſane perſons, agreeably to the directions of this act.

(a) 1785 c 87 § 2 *(b)* 1788 c 56 *(c)* 1790 c 19 § 2.

VIII. In case an infant child or ward, be suggested by the parent or guardian of such infant child or ward, to be of unsound mind, the court of the county, city, or borough, wherein such person may reside, shall appoint three justices to examine into the state of his or her mind; and upon the report of the said justices, if the suggestion appears to be true, such court shall order the insane to be removed to the hospital, in the manner before directed, where he or she shall be received and registered. *(a)*

IX. The expence of maintaining and endeavoring to cure a registered insane, shall be paid by the public, and reimbursed out of his estate, (if any such there be); and in case of an infant, not an orphan, shall be reimbursed by the parent, if of sufficient ability to support such infant; to be adjudged of, and certified by the court of that county where the parent resides, and may in either case be recovered by an action, in the name of the directors, who shall account for what shall thus come to their hands. *(a)*

X. Accounts of expences incurred in the execution of this act, as well as for repairing the hospital, and other necessary incidental works and services, shall be audited and discharged in the same manner as other public accounts. *(a)*

XI. The directors shall enlarge every person confined in the hospital, who shall appear to them to be perfectly cured of insanity, and give such person a certificate thereof. *(a)*

XII. A person registered in the hospital, shall nevertheless, during the time of his or her confinement, be deemed an inhabitant of that county, in which was his or her legal settlement at the time of his or her removal to the hospital. *(a)*

XIII. In case of the absence of the president of the directors, the members present may choose a president, pro tempore. *(b)*

XIV. Any director who shall remove to the distance of twenty miles or upwards, from the said hospital, shall be considered as having vacated his office. *(b)*

XV. Not more than two persons shall be paid as a guard for removing any insane person to the said hospital; which two shall have the same allowance made them for their services, as is at present allowed to guards employed in removing criminals, and who shall be paid by the court of directors, out of the monies appropriated for the use of the hospital. *(c)*

XVI. Where any person of unsound mind, is, or shall be seized or possessed of any lands, tenements, or hereditaments, in trust, or by way of mortgage, the committee appointed for the care of such person, on the petition of one or more of the parties interested, and after hearing them all, may execute any such deed, or perform any other such act, as the trustee or mortgagee, if he were of sound mind, might have executed or performed. And such deed or other act shall be as valid, except that he shall not be bound by a warranty or other covenant contained in the deed. Such committee may also make or take a surrender of a former lease, or take or make a new lease, as the case may require, and as it shall seem most for the advantage of such insane person; out of whose estate, any fine that may be advanced, and all other just expences that may be incurred in order to obtain a new lease to him, shall be reimbursed, and the new lease shall not only be chargeable with such fine and expences, but shall remain subject to all incumbrances which the lease surrendered would have been subject to *(d)*

XVII. The lands, tenements, and chattels, of all ideots and lunatics whatsoever, shall be kept in like manner as is herein before directed, in the case of such as be sent to the hospital, safely, without waste or destruction; and they and their household, shall live and be maintained competently, with the profits of the same; and the residue, besides their sustentation, shall be kept for their use, to be delivered unto them when they come to right minds; and if they die in such state, their lands and chattels shall be distributed in the manner directed by the act, intituled, "An act to reduce into one the several acts directing the course of descents." *(e)*

The repealing clause is, in substance, the same as in the appendix No. 19.

(a) 1785 c 87 *(b)* 1788 c 56 *(c)* 1790 c 19 § 4. *(d)* 1785 c 85 § 1 *(e)* 1785 c 68.

IMPEACHMENT.

October the 18th, 1792—but commenced Oct. 1, 1793.

§ I. THE proceſs againſt any perſon impeached by reſolution of the houſe of delegates, ſhall be ſummons, attachment, and diſtreſs, bearing teſte, the firſt of them, the day of emanation, and the others, the return day of the proceſs preceding, and ſhall be iſſued and ſigned by the clerk of that court where ſuch impeachment is, by the conſtitution, directed to be tried, as ſoon as ſuch impeachment ſhall be notified to him by the attorney-general, or any other perſon or perſons appointed by the houſe of delegates to proſecute the ſame. *(a)*

II. A copy of the articles of impeachment ſhall be delivered to the party accuſed, whenſoever he ſhall require it, and the court ſhall, from time to time, make ſuch rules for compelling him to anſwer, and bring the matter to iſſue ſpeedily, as to them ſhall ſeem reaſonable.

III. No perſon ſhall be found guilty on an impeachment, but by a jury, for which purpoſe, as ſoon as any matter of fact ſhall be put in iſſue, the clerk of ſuch court ſhall iſſue a venire facias to the ſheriffs of the ſenatorial diſtrict wherein the perſon accuſed reſides, commanding them to ſummon in their counties, to the firſt day of the next ſucceeding court, in proportions as nearly equal as poſſible, twenty-four jurors, qualified according to law for the trial of other criminal caſes, which proceſs may be repeated by order of the court, as often as it ſhall be neceſſary. The proſecutor for the commonwealth, and the perſon accuſed, ſhall, in open court, alternately ſtrike one, until the number ſhall be reduced to twelve; which remaining twelve ſhall be a jury, and ſhall try the impeachment, render a verdict, and proceed in the ſame manner as is preſcribed in the caſe of an indictment in the diſtrict courts. The jurors ſhall have the ſame allowance, and be ſubject to like penalties as in the caſe of veniremen, attending diſtrict courts. If twenty-four jurors ſhould not appear, by-ſtanders may be ſummoned to make up the deficiency.

IV. The party accuſed may have one or more counſel without petitioning the ſaid court.

V. A perſon impeached, may, for good cauſe, challenge a juror either before or after the names ſhall be ſtruck.

VI. No impeachment ſhall be tried during the ſeſſion of the general aſſembly, unleſs the party accuſed ſhall requeſt it.

VII. A perſon found guilty on impeachment, ſhall be either forever diſabled to hold any office under government, or removed from ſuch office, pro tempore, or ſubjected to ſuch pains or penalties as any act of the general aſſembly may direct.

The repealing clauſe is, in ſubſtance, as in the appendix No. 21.

IMPORTATION OF CONVICTS. *See Convicts.*

IMPRESSES.

December the 24th, 1792—but commenced Oct. 1, 1793.

IF any officer, ſoldier, commiſſary, quarter-maſter, or other perſon, ſhall preſume to take from any citizen or citizens of this commonwealth, any part of their property by way of impreſs, unleſs it be by warrant from the executive in caſe of actual invaſion, or by the ſheriffs or ſerjeants bringing criminals to a diſtrict court, or in ſuch other caſes as is or ſhall be expreſſly allowed by law, it ſhall be lawful for any magiſtrate in the county

(a) Conſtitution of Virginia, art. 16, 17—1778 c. 67 § 128, 129, 130—Ibid. c. 68 § 5, 6, 7—1789 c. 40.

or corporation where the offence is committed, upon information on oath, to iſſue his warrant for the immediate taking and ſafe keeping of ſuch offender or offenders, till they are delivered by due courſe of law; and all officers of the militia are hereby enjoined to ſupport the civil power in ſecuring and bringing ſuch offenders to juſtice. *(a)*

The repealing clauſe is the ſame, in ſubſtance, as in the appendix No. 18.

INCESTUOUS MARRIAGES. *See Marriages.*

INCLOSURES. *See Treſpaſſes, Incloſures, and Infection of Horned Cattle.*

INDIANS.

December the 24th, 1792—but commenced Oct. 1, 1793.

§ I. IT ſhall not be lawful for any Indian king, or any other tributary Indians whatſoever, upon any pretence, or upon any conſideration, to bargain and ſell, or demiſe to any perſon or perſons, other than to ſome of their own nation, or their poſterity, in fee, for life or for years, the lands laid out and appropriated for the uſe of ſuch Indians, or any part or parcel thereof; or to bargain and ſell as aforeſaid, any other land whatſoever, now actually poſſeſſed, or juſtly claimed and pretended to by the ſaid Indians, or any of them, by virtue of any articles of peace made and concluded with ſuch Indians by this commonwealth, or by the government exiſting previous to the eſtabliſhment of this commonwealth, or by virtue of any other right and title whatſoever; and every bargain, ſale or demiſe, hereafter made contrary to this act, as aforeſaid, ſhall be, and is hereby declared to be null and void to all intents, conſtructions, and purpoſes. *(b)*

II. If any perſon or perſons (other than the Indians and their poſterity) ſhall, from and after the publication of this act, preſume to purchaſe or obtain any deed, or conveyance in fee, or any leaſe for years, from any of the tributary Indians, of any lands, tenements, or hereditaments, laid out or appropriated, or now actually poſſeſſed, or juſtly claimed, or pretended to by the ſaid Indians, or ſhall occupy or tend any of the ſaid lands by permiſſion of the ſaid Indians, or otherwiſe, every perſon ſo offending, and being thereof lawfully convicted in any court of record within this commonwealth, ſhall forfeit and pay the ſum of one dollar and ſixty-ſeven cents for every acre of land ſo purchaſed, leaſed, or occupied, and ſo for every year ſuch perſon or perſons may hold poſſeſſion of ſuch lands, by virtue of ſuch purchaſe or leaſe; one moiety of which penalty ſhall accrue to the commonwealth, the other moiety to the informer; to be recovered by action of debt or information, in any court of record within this commonwealth. *(b)*

III. The Indians tributary to this government, ſhall be well ſecured and defended in their perſons, goods and properties; and whoſoever ſhall defraud or take from them their goods, or do hurt or injury to their perſons, ſhall make ſatisfaction, and be puniſhed for the ſame according to law, as if the Indian ſufferer had been a citizen of this commonwealth. *(b)*

The repealing clauſe is as in the appendix No. 17.

(a) Nov. 1781 c 36 *(b)* 1705 c 14

INDIAN MEAL.

December the 17th, 1795.

§ I. THE inſpectors of flour appointed in various places within this commonwealth, in conformity to an act, intituled, "An act, reducing into one the ſeveral acts for regulating the inſpections of flour and bread," ſhall be, and they are hereby appointed inſpectors of Indian meal; and in all appointments hereafter to be made under the act aforeſaid, the inſpectors of flour ſhall alſo be appointed inſpectors of Indian meal. All ſifted Indian meal, and every barrel thereof brought to any of the places mentioned in the above recited act for exportation, ſhall be made by the miller or manufacturer thereof, from corn well kiln dried, and be merchantable and of due fineneſs.

II. Every miller or manufacturer of Indian meal, ſhall provide and keep a diſtinguiſhable brand mark, with which he ſhall brand every caſk of meal, and mark thereon the tare and nett weight, before the ſame ſhall be removed from the place where the ſame was manufactured, under the penalty of thirty-three cents for every caſk of meal which ſhall not be marked as aforeſaid: And every caſk or barrel of Indian meal which the inſpector ſhall judge to be well packed, kiln-dried, and merchantable, according to the directions of this act, ſhall be branded in the quarter with theſe words, "fine meal," and with the name of the place at which he is inſpector.

III. The caſks or barrels in which Indian meal ſhall be packed, ſhall be made of the ſame materials and dimenſions as by the ſaid act is directed for barrels for flour and bread: And they ſhall, in like manner, be coopered, hooped and nailed. Every miller and manufacturer of Indian meal ſhall put into each barrel the full quantity of one hundred and ninety-ſix pounds of meal, and into every half barrel the full quantity of ninety-eight pounds of meal: And if any of them ſhall put a ſmaller quantity into any caſk, than is directed by this act, he ſhall forfeit for the deficiency of every pound under three, eight cents, and for the deficiency more than three, ſeventeen cents.

IV. For every barrel of Indian meal inſpected agreeable to the directions of this act, the inſpector ſhall have and receive as a compenſation, two cents; but the owner or manufacturer ſhall have the ſame right of appeal from the judgment of the inſpectors as is provided in the caſe of flour.

V. It ſhall not be lawful for any perſon to export or lade on board of any ſhip or veſſel for exportation out of this ſtate, any caſk of Indian meal which ſhall have been condemned by an inſpector; or to export or lade on board of any ſhip or veſſel for exportation, from any port or place within this ſtate, any caſks or barrels of Indian meal, not inſpected as aforeſaid, on pain of forfeiting and paying five dollars for every caſk or barrel exported, or laden on board any ſhip or veſſel for exportation, which may be recovered before a ſingle migiſtrate, one half to the uſe of the informer, and the other half to the uſe of the commonwealth.

INDICTMENTS. *See Criminals, Crimes, Offences, and Proſecutions.*

INFANTS. *See Guardians, Orphans, Committees, Infants, Maſters, and Apprentices.*

INFECTION OF HORNED CATTLE. *See Treſpaſſes, Incloſures, and Infection of Horned Cattle.*

INFORMATIONS. *See Criminals, Crimes, Offences, and Profecutions.*

INLAND BILLS OF EXCHANGE. *See Bills of Exchange.*

INOCULATION. *See Small-Pox.*

INSOLVENT DEBTORS. *See Executions.*

INSPECTORS. *See under the following heads: Hemp—Flour and Bread—Lumber—Indian Meal—Fish—Pork, Beef, Tar, Pitch, and Turpentine—Tobacco.*

INSTRUMENTS IN WRITING OF OTHER STATES. *See Foreign Deeds, Records, and other Inftruments.*

INTESTATES. *See Wills, Executors, Adminiftrators, and Inteftates.*

JAILS. *See Prifons.*

JEOFAILS. *See Limitation of Actions, Jeofails, and Proceedings in Civil Cafes.*

JOINT TENANCY. *See Joint Obligations, and Joint Rights—See alfo Abatement.*

JOINT OBLIGATIONS. *See Partitions, Joint Rights, and Obligations.*

JOINT RIGHTS. *See Partitions, Joint Rights, and Obligations.*

JUDGMENTS. *See Collufive Judgment againft Lands.*

JURIES.

November the 4th, 1792—but commenced Oct. 1, 1793.

§ 1. FOR the more regular enquiry into breaches of penal laws, and trials of matters of fact in the feveral courts of Juftice within this commonwealth, by juries; the

sheriff of each county, where a district court is appointed to be holden, shall before every meeting of such court, summon twenty-four of the most discreet freeholders of the district, not being ordinary keepers, constables, surveyors of highways, or occupiers of mills, to appear at the succeeding district court, on the first day thereof, which the said sheriff is hereby empowered to do, as well without his county as within the same; and the said twenty-four freeholders, or any sixteen of them, shall be a grand jury, who shall be sworn to enquire of and present all treasons, murders, felonies, or other misdemeanors whatsoever, which shall have been committed or done within the district, for which they are impannelled; and if a sufficient number of the said freeholders should not attend on the first day of the court, the sheriff shall summon from the by-standing freeholders, qualified according to law, a sufficient number to form together with such of the first mentioned freeholders as do attend, a grand jury. *(a)*

II. The sheriff of each county, and the serjeants of the cities of Williamsburg, Richmond, and borough of Norfolk, and other corporations within this commonwealth, shall before every quarter session of the county or corporation courts, respectively summon twenty-four freeholders of his county or corporation, not being ordinary keepers, constables, surveyors of highways, or owners or occupiers of a mill, out of which number shall be impannelled a grand jury of sixteen at the least, who shall be sworn to enquire into the breach of penal laws, and make presentment of the offenders; but shall present such offences and breaches only, as shall have been committed within the space of twelve months before the time of such presentment, unless the same be otherwise directed by law; and such grand juries having presented all such matters as come to their knowledge shall be discharged, always observing that when they make presentment, to write the name and surname of the prosecutor or informer, and the town or county in which he shall reside, with his title or profession, under such presentment, for the more effectual prosecution thereof.

III. An oath in the following words, shall be administered to the foreman of a grand jury.

"You as foreman of this inquest, shall diligently enquire into, and true presentment "make of all such matters and things as shall be given you in charge, or otherwise come "to your knowledge, touching the present service; you shall present no person through "malice, hatred, or ill-will; nor shall you leave any unpresented through fear, favor, or "affection, or for any reward, hope, or promise thereof, but in all your presentments, "you shall present the truth, the whole truth, and nothing but the truth, according to the "best of your skill and understanding. So help you God."

The following oath shall be administered to the other jurors:

"The same oath that A. B. your foreman, hath now taken before you on his part, you "and each of you, shall well and truly observe and keep on your respective parts. So "help you God."

IV. *Provided*, That the inhabitants of any corporate town, shall not be grand jurymen for the county in which such corporate town shall be.

V. Every such grand jury for a county or corporation, shall and may present all offences made penal by the laws of this commonwealth, although the recovery of the fines for such offences shall be otherwise directed by the laws inflicting the same; and although the forfeiture or penalty thereby inflicted, shall not amount to five dollars, or two hundred pounds of tobacco. *(b)*

(a) 22 Geo. II. c 7 § 1—1788 c 67 § 106 *(b)* 28 Geo. II. c 7 § 1

VI. In a preſentment to the county or corporation court, if the penalty of the offence exceed not five dollars, or three hundred pounds of tobacco, or to the diſtrict court, if the penalty exceed not twenty dollars, or one thouſand pounds of tobacco, no information thereupon ſhall be filed, but a ſummons ſhall be iſſued againſt the defendant to anſwer the preſentment, and ſuch ſummons having been ſerved upon him, or a copy thereof having been left at the place of his uſual abode, where the proſecution ſhall be in the county or corporation court, at leaſt ten days before the return day, if he do not appear, judgment ſhall be entered againſt him for the penalty, and if he do appear, the court ſhall in a ſummary way, without a jury, hear and determine the matter of the preſentment, in the form in which it ſhall have been made, and give judgment thereupon according to law, and the very right of the cauſe, diſregarding any exception that may or might be taken to the form of the preſentment. *(a)*

VII. Every freeholder ſummoned to appear on a grand jury as aforeſaid, and failing to attend, not having a reaſonable excuſe, ſhall be fined by the courts reſpectively, not exceeding eight dollars, unleſs good cauſe be ſhewn to the contrary, at or before the next court, to the uſe of the commonwealth. *(b)*

VIII. Grand jurors ſhall be privileged from arreſts in all caſes, except treaſon, felony, and breaches of the peace during their attendance at court, coming to and returning from thence, allowing one day for every twenty miles from their places of abode, and all ſuch arreſts ſhall be void.

IX. No grand jury ſhall make preſentment of their own knowledge, upon information of fewer than two of their own body, nor in the diſtrict courts where the penalty inflicted by law is leſs than five dollars, or two hundred pounds of tobacco. *(c)*

X. In caſe of the ſickneſs, death, or non-attendance of any grand juror or grand jurors, after he or they ſhall be ſworn, it ſhall be lawful for the court to cauſe others to be ſworn in his or their ſtead. *(d)*

XI. For the trial of all cauſes in the diſtrict courts, and in the county and other inferior courts where a jury may be neceſſary, the ſheriff or other officer attending ſuch courts reſpectively, ſhall every day the court ſits, ſummon a ſufficient number of by-ſtanders, or others qualified as herein after directed, to attend the court that day, that out of them may be impannelled ſufficient juries for the trial of cauſes depending in ſuch courts; and if any perſon ſo ſummoned ſhall fail to attend the court accordingly, he ſhall be fined eight dollars, to the uſe of the commonwealth. *(e)*

XII. No perſon ſhall be capable to be of a petit-jury, for the trial of treaſon, felony, breach of the peace, miſpriſion of treaſon, breach of a penal law, or any other pleas of the commonwealth, or of any eſtate of freehold, or eſtate or title in or to lands, tenements, or hereditaments, in any court of record in this commonwealth, or to be a juror in any cauſe whatſoever, depending in the diſtrict or any other of the ſuperior courts of the commonwealth, unleſs ſuch perſon be a freeholder, and poſſeſſed of a viſible eſtate, real or perſonal, of the value of three hundred dollars at the leaſt. No perſon ſhall be capable to be of a jury for the trial of any cauſe whatſoever, in any county court or other inferior court, unleſs he be poſſeſſed of a viſible eſtate, real or perſonal, of the value of one hundred and fifty dollars at the leaſt. No perſon under the age of twenty-one years, ſhall ſerve as a juror. No ſheriff or other officer ſhall, at any time ſummon or return any juror, not qualified as this act directs. *Provided always*, that no exceptions againſt any juror, on account of his eſtate or age, or any other legal diſability, ſhall be allowed after he is ſworn. *(f)*

XIII. Juries de medietate linguæ may be directed by the courts reſpectively. *(g)*

XIV. Jurors knowing any thing relative to the point in iſſue ſhall diſcloſe the ſame in open court. *(h)*.

(a) 1786 c 57 *(b)* 22 Geo. II. c 7 § 1—1788 c 67 § 108 *(c)* 22 Geo. II. c 7 § 4—1788 c 67 § 107 *(d)* 1788 c 67 § 106 *(e)* 22 Geo. II. c 7 § 5 *(f)* 22 Geo. II. c 7 § 5 & 6 *(g)* 1788 c 67 § 44 *(h)* 1788 c 67 § 47

XV. Any juror guilty of a contempt to the court, may be fined by ſuch court in any ſum not exceeding thirty dollars. (*a*)

XVI. No ſheriff ſhall converſe with a juror, but by order of the court, after the jury have retired from the bar. (*b*)

XVII. If any ſheriff ſhall fail to ſummon a grand-jury, and return a pannel of their names as herein directed, he ſhall forfeit and pay twenty dollars, for the uſe of the commonwealth. (*c*)

XVIII. Every venire-man ſummoned and attending the diſtrict court for the trial of any perſon charged with a criminal offence, ſhall have the ſame allowance for travelling and attendance, as is provided in the caſe of witneſſes attending the ſaid courts, to be paid by the public. If any perſon ſo ſummoned as a venire-man, ſhall fail to attend accordingly, not having a reaſonable excuſe, to be made at the time he ſhould have appeared, or at the next diſtrict court, every ſuch perſon may be fined by the court, not exceeding ſix dollars, to the uſe of the commonwealth. (*d*)

XIX. If any juror upon any inqueſt whatſoever, ſhall take any thing by himſelf, or another, to give his verdict, and ſhall be thereof convicted, ſuch juror ſhall not thereafter be put on any jury, and ſhall pay ten times as much, as he ſhall have taken; whereof one half ſhall go to him who will ſue for the ſame, and the other half to the commonwealth. (*e*)

XX. The ſheriff of the county of James City for the time being, and his under ſheriffs and deputies, and every of them, ſhall be, and are hereby empowered and authoriſed, to ſummon jurors of the inhabitants of James City county, in all and every part of the city of Williamſburg, as well in that part lying in the county of York, as James City, to ſerve on juries on the days appointed for holding courts in the ſaid county of James City. (*f*)

The repealing clauſe is, in ſubſtance, as in the appendix No. 16.

December the 9th, 1793.

§ I. WHEREAS under the exiſting law, concerning grand-juries, petit-juries, and venire-men, the grand-juries of the diſtrict, county and corporation courts, are not in poſitive and explicit terms directed to be citizens of this ſtate, whereby it hath ſometimes happened, that perſons, not citizens of this commonwealth heve been ſummoned and impannelled as grand-jurors in the ſaid courts: For remedy whereof;

II. Hereafter every grand-juror, ſummoned to attend any diſtrict, county, corporation court, or impannelled to ſerve in the ſame, ſhall, in addition to the other requiſites preſcribed by the ſaid act, "Concerning grand-juries, petit-juries, and venire-men," be alſo a citizen of this commonwealth.

JUSTICE.

December the 5th, 1785—but commenced Jan. 1, 1787.

NO freeman ſhall be taken or impriſoned, or be diſſeized of his freehold, or liberties or free cuſtoms, or be outlawed or exiled, or any otherwiſe deſtroyed, nor ſhall the commonwealth paſs upon him, nor condemn him, but by lawful judgment of his peers, or by the laws of the land. Juſtice or right ſhall not be ſold, denied, or deferred, to any man. (*g*)

(*a*) 1788 c 67 § 46 (*b*) 1788 c 67 § 48 (*c*) 22 Geo. II. c 6 § 1 (*d*) 1788 c 67 § 103 & 104 (*e*) 1789 c 26 § 3 (*f*) 1748 c 7 (*g*) Magna charta.

LAND-OFFICE.

December the 17th, 1792—but commenced Oct. 1, 1793.

§ I. ALL grants of lands shall issue from the land-office, in manner and form herein after mentioned.

II. A register of the said land-office shall be appointed from time to time by joint ballot of both houses of assembly, who shall give bond with sufficient security to the governor or first magistrate of this commonwealth, in the penalty of ten thousand dollars; shall hold his office during good behaviour, and shall have power to appoint a deputy and clerks to assist in executing the business of the said office, but shall nevertheless reside there himself. *(a)*

III. If any vacancy shall happen by the death, resignation, removal, or other legal disability of a register, during the recess of the general assembly, the governor, or first magistrate of the commonwealth, by and with the advice of the council, may appoint some other person, giving bond and security in like manner, to act as register of the said office, until the end of the next session of assembly. *(a)*

IV. All copies of the records, and other papers now being, or which shall hereafter be in the said office, including those which have been removed from the office of the late proprietor of the Northern-Neck, duly attested by such register, shall be as good evidence as the originals would be. *(a)*

V. Any person may acquire title to so much waste and unappropriated land lying within this commonwealth, as he shall desire to purchase, on paying the consideration of two dollars for every hundred acres; which consideration may be paid in specie, or in auditor's warrants, or audited certificates, and so in proportion for a greater or smaller quantity, and obtaining certificate from the auditor of public accounts in the following manner: The consideration money shall be paid into the hands of the treasurer, who shall give to the purchaser a receipt for the payment, specifying the purpose it was made for; which being delivered to the auditor, he shall give to such person a certificate thereof, with the quantity of land he or she is entitled to, and, upon lodging the same in the land-office, the register thereof shall grant to such person or persons, his or their heirs or assigns, a printed warrant under his hand, and the seal of his office, specifying the quantity of land, and the rights upon which it is due, authorising any surveyor, duly qualified according to law, to lay off and survey the same, and shall regularly enter and record in the books of his office, all such certificates, and the warrants issued thereupon, which warrants shall be always good and valid until executed by actual survey, or exchanged in the manner herein after directed: *Provided always*, That no warrant shall issue to be located on any lands which may vest in the commonwealth on account of the non-payment of the taxes thereon, unless the person applying for the same, shall pay in consideration thereof, at the rate of one hundred dollars for every hundred acres, and for the better direction of the surveyors, the register shall express in the warrant what sum was paid therefor. *(b)*

VI. *Provided also*, That all unappropriated lands on the bay of Chesapeake, on the sea shore, or on the shores of any river or creek, and the bed of any river or creek in the eastern parts of this commonwealth, which have remained ungranted by the former government, and which have been used as a common to all the good people thereof, shall be, and the same are hereby excepted out of this act; and no grant issued by the register of the land-office for the same, either in consequence of any survey already made, or which may hereafter be made, shall be valid or effectual in law to pass any estate or interest therein.

VII. Every person who shall hereafter desire to become a surveyor, shall be nominated by the court of his county, examined, and certified able by the president and professors of William and Mary college, and if of good character, commissioned by the governor, with

(a) May 1779 c 13 § 1 (b) 1785 c 42—May 1779 c 13 § 6

a reſervation in ſuch commiſſion to the ſaid profeſſors, for the uſe of the college, of one ſixth part of the legal fees that ſhall be received by ſuch ſurveyor; for the yearly payment of which, he ſhall give bond with ſufficient ſecurity to the preſident and maſters of the ſaid college; he ſhall hold his office during good behaviour, and before he ſhall be capable of entering upon the execution of his office, ſhall before the court of the ſame county, take an oath, and give bond, with two ſufficient ſecurities, to the governor and his ſucceſſors, in ſuch ſum as he, with advice of council, ſhall have directed, for the faithful execution of his office.

VIII. All deputy ſurveyors ſhall be recommended by their principals to the court of the county, of which ſuch principal may be ſurveyor; the court ſhall thereupon appoint and direct one or more fit perſons, to examine into the capacity, ability, and fitneſs of the perſon or perſons ſo recommended; and upon a certificate of ſuch examination, and report of the capacity, ability, and fitneſs of the perſon or perſons ſo recommended, the ſaid court is hereby empowered and directed to appoint him or them to act as deputy or deputies, for whoſe conduct, in every reſpect touching his office, the principal ſurveyor ſhall be anſwerable; and all deputies ſo appointed, ſhall have power and authority to act and do in all things, and to every intent and purpoſe, as the principal ſurveyor, except in caſes otherwiſe provided by this act; and ſhall thereupon be entitled to one half the fees received for ſervices performed by them reſpectively, after deducting the proportion thereof due to the college. If any principal ſurveyor ſhall fail to nominate a ſufficient number of deputies to perform the ſervices of his office in due time, the court of the county ſhall direct what number he ſhall nominate; and in caſe of failure, ſhall nomitate for him. And if any deputy ſurveyor, or any other on his behalf, and with his privity, ſhall pay or agree to pay any greater part of the profits of his office, ſum of money in groſs, or, other valuable conſideration to his principal, for his recommendation or intereſt in procuring the deputation, ſuch deputy and principal ſhall be thereby rendered forever incapable of ſerving in ſuch office: *Provided always*, That any deputy-ſurveyor ſhall be removable from office, at the diſcretion of his principal. *(a)*

IX. Every ſurveyor of lands, ſhall hereafter be reſident in the county whereof he is ſurveyor, during the time he ſhall continue in office, under the penalty of forfeiting ſix hundred dollars for every month he ſhall reſide out of the ſame, unleſs detained by ſuch buſineſs as the court of the county ſhall judge reaſonable; one moiety ſhall be to the commonwealth, for the better ſupport of this government and the contingent charges thereof, and the other moiety to the informer. *(a)*

X. Where any perſon ſhall hold a warrant from the land-office, or be deſirous to make an entry in any county on the eaſtern waters, for vacant and unappropriated land, and there ſhall be no ſurveyor qualified to act in ſuch county, then it ſhall and may be lawful for ſuch perſon to make ſuch entry with the clerk of the county court, and the ſame ſurveyed by any legal ſurveyor of the next or neghbouring county, ſhall be good and ſufficient to enable ſuch perſon to obtain a patent or grant for the ſame. *(b)*

XI. *Provided always*, That the ſurveyors of the counties of Monongalia, Harriſon, Randolph, and Ohio, ſhall not be accountable to the preſident and maſters of William and Mary college, for any part of the fees which have accrued to them for ſervices ſubſequent to the firſt day of January, one thouſand ſeven hundred and eighty-eight, or ſhall hereafter accrue; and the bonds given by them for the yearly payment of one ſixth part of their fees to the preſident and maſters of the ſaid college, ſhall be, and are hereby declared to be, null and void, ſo far as relates to the fees which became due to them after the ſaid firſt day of January in the year laſt mentioned, or ſhall hereafter become due. *(c)*

X

(a) Oct. 1783 c 32 § 1 *(b)* May 1779 c 13 *(c)* 1787 c 95 § 14.

XII. *Proviſo.* That each of the ſurveyors of the ſaid counties of Monongalia, Harriſon, Randolph, and Ohio, hereafter to be appointed, ſhall, within one month after he ſhall be required by the board of truſtees of the Randolph academy, give bond with ſufficient ſecurity, in a reaſonable ſum, for the yearly payment of one ſixth part of the fees which he ſhall receive, to the ſaid truſtees, for the uſe of the ſaid academy; and in caſe any one of the ſaid ſurveyors ſhall fail or refuſe to give ſuch bond and ſecurity, he ſhall forfeit and pay to the ſaid truſtees, the ſum of three hundred dollars annually, to be recovered by motion in the court of the county of ſuch ſurveyor, upon giving him ten days previous notice of ſuch motion.

XIII. Every perſon having a land warrant, and being deſirous of locating the ſame on any particular waſte and unappropriated lands, ſhall lodge ſuch warrant with the chief ſurveyor of the county wherein the ſaid lands or the greater part of them lie, who ſhall give a receipt for it if required. The party ſhall direct the location thereof ſo ſpecially and preciſely, as that others may be enabled with certainty to locate other warrants on the adjacent reſiduum; which location ſhall bear date the day on which it ſhall be made, and ſhall be entered by the ſurveyor in a book to be kept for that purpoſe, in which there ſhall be left no blank leaves or ſpaces between the different entries. (*a*)

XIV. And if ſeveral perſons ſhall apply with their warrants at the office of any ſurveyor at the ſame time, to make entries, they ſhall be preferred according to the priority of the dates of their warrants; but if ſuch warrants be dated on the ſame day, the ſurveyor ſhall ſettle the right of priority between ſuch perſons by lot. (*a*)

XV. And every ſurveyor ſhall, at the time of making entries for peſons not being inhabitants of his county, appoint a time for ſurveying their land, and give notice thereof in writing to the perſons making the ſame; and if on ſuch application at his office the ſurveyor ſhall refuſe to enter ſuch location, under pretence of a prior entry for the ſame lands made by ſome other perſons, he ſhall have a right to demand of the ſaid ſurveyor, a view of the original of ſuch prior entry in his book, and alſo an atteſted copy of it. *(a)*

XVI. Any chief ſurveyor having a warrant for lands, and deſirous to locate the ſame within his own county, ſhall enter ſuch location with the clerk of the county, who ſhall return the ſame to his next court, to be there recorded; and the ſaid ſurveyor ſhall proceed to have the ſurvey made as ſoon as may be, or within ſix months at fartheſt, by ſome one of his deputies, or if he hath no deputy, then by any ſurveyor or deputy ſurveyor of an adjacent county; and in caſe of failure, his entry ſhall be void, and the land liable to the entry of any other perſon. *(a)*

XVII. Every chief ſurveyor ſhall proceed with all practicable diſpatch, to ſurvey all lands entered for in his office, and ſhall, if the party live within his county, either give him perſonal notice of the time at which he will attend to make ſuch ſurvey, or ſhall publiſh ſuch notice, by fixing an advertiſement thereof on the door of the court-houſe of the county, on two ſeveral court days; which time, ſo appointed, ſhall be at leaſt one month after perſonal notice given, or after the laſt advertiſement ſo publiſhed; and if the ſurveyor ſhall accordingly attend, and the party, or ſome one for him, ſhall fail to appear at the time, with proper chain carriers, and a perſon to mark the lines, if neceſſary, his entry ſhall become void, the land thereafter ſubject to the entry of any other perſon, and the ſurveyor ſhall return him the warrant, which may, notwithſtanding, be located anew, upon any other waſte or unappropriated lands, or again upon the ſame land, where it hath not in the mean time been entered for by another perſon. *(a)*

XVIII. And whereas many inconveniences have ariſen from the inattention of ſurveyors to the variation of the magnetic needle, in re-ſurveying lands which were formerly ſurveyed, when the variation was very different from what it is now, and many miſtakes and

(a) Oct. 1783 c 32

much confuſion may ariſe in comparing future ſurveys with the preſent: For remedy whereof, every ſurveyor ſhall, under the penalty of fifteen dollars, expreſs and declare, in or on the plat and return of each ſurvey, by him or them taken or made, the true quantity or degree of the variation aforeſaid, and whether it be eaſt or weſt. (*a*)

XIX. *Provided always*, That when any ſurveyor ſhall be called upon, or ordered to re-ſurvey any lands, that may have been ſurveyed before the firſt day of June, in the year of our Lord, one thouſand ſeven hundred and ſeventy-three, ſuch ſurveyor ſhall or may re-ſurvey ſuch lands, according to the mode of ſurveying by the magnetic meridian, but ſhall, nevertheleſs, under the penalty aforeſaid, return and certify, in his plat, the quantity or degree of the variation of the magnetic needle from the true meridian, at the time of making ſuch re-ſurvey, and ſhall alſo, in the ſaid plat and return, certify (where the ſame can be done) the quantity or degree of variation between the original lines of ſuch former ſurvey, from the true meridian aforeſaid. (*b*)

XX. The penalty of fifteen dollars afore-mentioned, may be recovered by any perſon or perſons who ſhall ſuſtain any damage by the ſurveyor's failing to comply with the directions aforeſaid, who will inform or ſue for the ſame, by action of debt, bill, plaint, or information, in any court of record within this commonwealth. (*c*)

XXI. Where the chief ſurveyor doth not mean to ſurvey himſelf, he ſhall immediately after the entry made, direct a deputy ſurveyor to perform the duty, who ſhall proceed as is before directed in the caſe of the chief ſurveyor. (*d*)

XXII. The perſons employed to carry the chain on any ſurvey, ſhall be ſworn by the ſurveyor, whether principal or deputy, to meaſure juſtly and exactly, to the beſt of their abilities, and to deliver a true account thereof to ſuch ſurveyor, and ſhall be paid for their trouble by the party for whom the ſurvey is made. (*d*)

XXIII. The ſurveyor, at the time of making the ſurvey, ſhall not leave any open lines, but ſhall ſee the ſame bounded plainly by marked trees, except where a water courſe or ancient marked line ſhall be the boundary, and ſhall make the breadth of each ſurvey, at leaſt one third of its length in every part, unleſs where ſuch breadth ſhall be reſtrained on both ſides by mountains unfit for cultivation, by water courſes, or the bounds of lands before appropriated. (*d*)

XXIV. The ſurveyor ſhall, as ſoon as it can conveniently be done, and within three months at fartheſt after making the ſurvey, deliver to his employer, or his order, a fair and true plat and certificate of ſuch ſurvey, the quantity contained, the hundred (where hundreds are eſtabliſhed in the county) wherein it lies, the courſes and deſcriptions of the ſeveral boundaries, natural and artificial, ancient and new, expreſſing the proper names of ſuch natural boundaries, where they have any, and the name of every perſon whoſe former lines made a boundary, and alſo the nature of the warrant and rights on which ſuch ſurvey was made. (*d*)

XXV. The ſaid plats and certificates ſhall be examined and tried by the ſaid principal ſurveyor, whether truly made and legally proportioned as to length and breadth, and ſhall be entered within three months at fartheſt, after the ſurvey is made, in a book well bound, to be provided by the court of his county at the county charge; and he ſhall in the month of July in every year, return to the preſident and profeſſors of William and Mary College, and alſo to the clerk's office of his county court, a true liſt of all ſurveys made by him or his deputies in the preceding twelve months, with the names of the perſons for whom they were reſpectively made, and the quantities contained in each, there to be recorded by ſuch clerk; and no perſon ſhall hereafter hold the offices of clerk of a county court and ſurveyor of a county, nor ſhall a deputy in either office, act as deputy or chief in the other. (*d*)

XXVI. Any ſurveyor, whether principal or deputy, failing in any of the duties aforeſaid, ſhall be liable to be indicted in the court of the diſtrict in which he ſhall reſide, and

(*a*) 1772 c 12 § 1 (*b*) 1772 c 12 § 2 (*c*) 1772 c 12 § 3 (*d*) Oct. 1783 c 32

puniſhed by amercement or deprivation of his office, and incapacity to take it again, at the diſcretion of a jury; and ſhall moreover, be liable to any party injured, for all damages he may ſuſtain by ſuch failure. (*a*)

XXVII. Every county court ſhall once in every year, and oftener if they ſee cauſe, appoint two or more capable perſons to examine the books of entries and ſurveys in poſſeſſion of their chief ſurveyor, and to report in what order and condition the ſame are kept; and on his death or removal, ſhall have power to take the ſame into their poſſeſſion, and deliver them to the ſucceeding chief ſurveyor. (*a*)

XXVIII. If any ſurveyor, or other perſon who may be in poſſeſſion of any ſuch book of entries or ſurveys, ſhall refuſe or neglect to produce ſuch book to the perſons who by any court may be appointed to examine the ſame, or to deliver up the ſame agreeable to the order of ſuch court to any chief ſurveyor who has ſucceeded or may ſucceed any ſurveyor, dead, or removed from office, ſuch ſurveyor, or other perſon, ſhall, for every ſuch refuſal, or neglect, forfeit and pay the ſum of thirty dollars; one half to the uſe of the county, and the other half to the uſe of the perſon ſuing for the ſame; to be recovered by action of debt, plaint, or information. (*b*)

XXIX. And for preventing haſty and ſurreptitious grants, and avoiding controverſies and expenſive law ſuits, no ſurveyor ſhall, at any time within twelve months after the ſurvey made, iſſue or deliver any certificate, copy, or plat of land by him ſurveyed, except only to the perſon or perſons for whom the ſame was ſurveyed, or to his, her, or their order, unleſs a caveat ſhall have been entered againſt a grant to the perſon claiming under ſuch ſurvey, to be proved by an authentic certificate of ſuch caveat, from the clerk of the court, where ſuch caveat ſhall be entered, produced to the ſurveyor; and if any ſurveyor ſhall preſume to iſſue any certificate, copy, or plat as aforeſaid, to any other than the perſon or perſons entitled thereto, every ſurveyor ſo offending, ſhall forfeit and pay to the party injured, his or her legal repreſentatives, or aſſigns, one hundred dollars for every hundred acres of land contained in the ſurvey, whereof a certificate, copy, or plat ſhall be ſo iſſued, or ſhall be liable to the action of the party injured at the common law, for his or her damages, at the election of the party. (*c*)

XXX. It ſhall not be lawful for any ſurveyor to admit an entry for any land, without a warrant from the regiſter of the land-office, or on a certificate from a principal ſurveyor, that ſuch warrant is filed in his office, which certificate ſhall deſcribe the number thereof, the time when iſſued, to whom, and the aſſignments thereon, if any there be. (*d*)

XXXI. Every perſon for whom any waſte or unappropriated lands ſhall be ſo located and laid off, ſhall within twelve months at fartheſt after the ſurvey made, return the plat and certificate of the ſaid ſurvey into the land-office; and may demand of the regiſter a receipt for the ſame; and on failing to make ſuch return within twelve months, as aforeſaid, or if the breadth of his plat be not one third of its length, as before directed, it ſhall be lawful for any other perſon to enter a caveat in the ſaid land-office againſt the iſſuing of any grant to him, expreſſing therein for what cauſe the grant ſhould not iſſue; or if any perſon ſhall obtain a ſurvey of lands to which another hath by law a better right, the perſon having ſuch better right, may in like manner, enter a caveat to prevent his obtaining a grant, until the title can be determined; ſuch caveat alſo expreſſing the nature of the right on which the plaintiff therein claims the ſaid land. (*d*)

XXXII. The perſon entering any caveat, ſhall take from the regiſter of the land-office, a certified copy thereof, which within thirty days thereafter, he ſhall deliver to the clerk of the court of that diſtrict or county in which the land lies; and ſhall moreover take from the ſurveyor of the county, or from the regiſter's office, a certified copy of the ſurvey and plat, which within thirty days from the entering ſuch caveat, he ſhall in like man-

(*a*) Oct. 1783 c 23 (*b*) 1787 c 52 § 5 (*c*) Oct. 1783 c 32 (*d*) May 1779 c 13 § 3

ner deliver to the clerk of the court where the ſuit ſhall be inſtituted; and in caſe of failure in either inſtance, the caveat ſhall be void. *(a)*

XXXIII. The clerk of ſuch court, on receiving the ſame, ſhall enter ſuch copy of the caveat in a book to be kept by him for that purpoſe, and ſhall thereupon iſſue a ſummons, reciting the cauſe for which ſuch caveat is entered, and requiring the defendant to appear on the firſt day of the next ſucceeding diſtrict court, or quarterly ſeſſion, if the ſuit be inſtituted in a county court, and defend his right; and on ſuch proceſs being returned executed, the court ſhall proceed to determine the right of the cauſe in a ſummary way, without pleadings in writing, impannelling and ſwearing a jury for the finding of ſuch facts as are material to the cauſe, and are not agreed by the parties, and ſhall thereupon give judgment; a copy of ſuch judgment, if in favor of the defendant, being delivered into the land-office, ſhall vacate the ſaid caveat; and if not delivered within three months, a new caveat may for that cauſe be entered againſt the grant; and if the ſaid judgment be in favor of the plaintiff, upon delivering the ſame into the land-office, together with a plat and certificate of the ſurvey, and alſo producing a legal certificate of new rights on his own account, he ſhall be entitled to a grant thereof; but on failing to make ſuch return, and produce ſuch certificates within ſix months after judgment ſo rendered, it ſhall be lawful for any other perſon to enter a caveat for that cauſe againſt iſſuing the grant; upon which ſubſequent caveats, ſuch proceedings ſhall be had as are before directed in the caſe of an original caveat; and in any caveat, where judgment ſhall be given for the defendant, the court ſhall award him his coſts, and may compel the plaintiff, in any caveat, if they think fit, to give ſecurity for coſts, or on failure thereof, may diſmiſs the ſuit; and in caſe the plaintiff in any ſuch caveat ſhall recover, the court may, if they think it reaſonable, award coſts againſt the defendant: *Provided*, That where any lands ſurveyed upon a land warrant as aforeſaid, ſhall in conſequence of any judgment upon a caveat, be granted to any other perſon than the party claiming under ſuch warrant, ſuch party ſhall be entitled to a new warrant from the regiſter for the quantity of land ſo granted to another, reciting the original warrant and rights, and the particular cauſe of granting the new warrant. *(b)*

XXXIV. *Provided always*, That no caveat ſhall be entered, unleſs the perſon at the time of entering ſuch caveat, ſhall file with the regiſter or his deputy, an affidavit that ſuch caveat is really and bona fide made with an intention of procuring the lands for the perſon in whoſe name ſuch caveat is entered, and not in truſt for the benefit of the perſon againſt whom ſuch caveat is entered; and all caveats entered contrary to the directions of this act, ſhall be abſolutely null and void. *(c)*

XXXV. And wherever a ſummons upon a caveat ſhall either not be returned at all, or be returned not executed, the caveat upon which ſuch ſummons ſhall have iſſued, ſhall be diſmiſſed with coſts, unleſs the court, before whom ſuch caveat ſhall be depending, ſhall be ſatisfied that the ſaid ſummons not having been executed, did not proceed from the neglect of the party who entered ſuch caveat. *(c)*

XXXVI. And whereas, in ſome caſes plats and certificates of ſurvey have not been recorded in the ſurveyor's office, nor returned to the regiſter's office within the times reſpectively limited by law, and it is doubtful whether the lands held under ſuch ſurveys are not ſtill liable to be caveated: Where no caveat ſhall be entered before the ſaid duties reſpectively ſhall be performed, ſuch lands ſhall not thereafter be liable to forfeiture on account of ſuch failure. *(d)*

XXXVII. The clerks of the ſeveral diſtrict and county courts, within one month after the end of every ſeſſion of the ſaid courts, ſhall return to the regiſter of the land-office, an atteſted liſt of all caveats that were diſmiſſed or determined at the ſaid preceding court, which

(a) May 1779 c 13 § 3—1787 c 10 § 10 *(b)* May 1779 c 10 § 3—1787 c 10 *(c)* May 1783 c 59 § 4 *(d)* May 1783 c 49 § 4

the regiſter ſhall compare with the caveat book; and in all caſes where he ſhall find that the caveats have been diſmiſſed, or determined in favor of the defendant, he ſhall make out grants for ſuch lands, as if no ſuch caveats had been entered in his office. (*a*)

XXXVIII. Whenſoever upon a caveat, the court ſhall determine in favor of a caveator, all the fees he ſhall pay into the regiſter's office, in conſequence of ſuch determination, in order to obtain his patent, ſhall be by the regiſter paid to the perſon who, in the firſt inſtance upon the return of the ſurvey, hath been compelled to pay the fees. (*b*)

XXXIX. And to prevent confuſion and miſtakes in the application, exchange or renewal of warrants, the regiſter of the land office is hereby directed and required, to leave a ſufficient margin in the record books of his office, and whenever any warrant ſhall be exchanged, renewed or finally carried into execution by a grant, to note the ſame in the margin oppoſite to ſuch warrant, with folio references to the grant, or other mode of application; and alſo to note in the margin oppoſite to each grant, the warrant or warrants, and ſurvey on which ſuch grant is founded, with proper folio references to the books in which the ſame are recorded. (*c*)

XL. All perſons, as well foreigners as others, ſhall have right to aſſign or transfer warrants or certificates of ſurvey for lands; and any foreigner purchaſing warrants for lands, may locate and have the ſame ſurveyed, and after returning a certificate of ſurvey to the land-office, ſhall be allowed the term of two years, either to become a citizen, or to transfer his right in ſuch certificate of ſurvey, to ſome citizen of this, or any other of the United States of America. (*c*)

XLI. When any grant ſhall have been finally completed, the regiſter ſhall cauſe the plat and certificate of ſurvey on which ſuch grant is founded, to be exactly entered and recorded in well bound books, to be provided for that purpoſe at the public charge.

XLII. Due returns of the ſeveral articles herein before required, being made into the land-office, the regiſter, within not leſs than ſix, nor more than nine months, ſhall make out a grant by way of deep-poll, to the party having right, in the following form:

"A. B. Eſquire, governor of the commonwealth of Virginia, to all to whom theſe preſents ſhall come, greeting: Know ye, that in conſideration of military ſervices performed by C. D. to this commonwealth, &c. (or in conſideration of military ſervice performed by C. D. to the United American States, or in conſideration of the ſum of paid by C. D. into the treaſury of this commonwealth, &c.) there is granted by the ſaid commonwealth, unto the ſaid C. D. a certain tract or parcel of land containing acres, lying in the county of , and hundred of &c. (deſcribing the particular bounds of the land, and the date of the ſurvey upon which the grant iſſues) with its appurtenances; to have and to hold the ſaid tract or parcel of land, with its appurtenances, to the ſaid C. D. and his heirs, forever. In witneſs whereof the ſaid A. B. governor of the commonwealth of Virginia, hath hereunto ſet his hand, and cauſed the ſeal of the ſaid commonwealth to be affixed, at , on the day of , in the year of our Lord , and of the commonwealth A. B." (*c*)

XLIII. Upon which grant the ſaid regiſter ſhall endorſe, that the party hath title to the ſame; whereupon it ſhall be ſigned by the governor, ſealed with the ſeal of the commonwealth, and then entered of record at full length, in good and well bound books, to be provided for that purpoſe at the public expence, and kept by the regiſter; and being ſo entered, ſhall be certified to have been regiſtered, and then be delivered to the party or his order. (*c*)

XLIV. Where a grant ſhall be made to the heir or aſſignee of a perſon claiming under any of the before mentioned rights, the material circumſtances of the title ſhall be recited in ſuch grant. (*c*)

(*a*) May 1783 c 39 § 5 (*b*) Oct 1784 c 51 § 4 & 5. (*c*) May 1779 c 13 § 3

XLV. The proprietor of any high lands, to which any ſwamps, marſhes, or ſunke grounds are contiguous, if an infant, feme covert, beyond ſea, or under any other legal diſ bility, ſhall have a right of pre-emption to enter for and complete his or her title thereto, a any time within three years after ſuch diſability ſhall be removed. *(a)*

XLVI. And whereas, through the ignorance, negligence, or fraud of ſurveyors, it may happen that divers perſons now do, or may hereafter hold within the bounds expreſſed in their patents or grants, greater quantities of land than are therein mentioned: For quieting ſuch poſſeſſions, preventing controverſies, and doing equal juſtice to the commonwealth and its citizens: It ſhall not be lawful for any perſon to enter for, ſurvey, or take up any parcel of land held as ſurplus in any patent or grant, except during the life-time of the patentee or grantee, and before any transference, conveyance, or other alienation ſhall have been made of the lands contained in ſuch patent or grant, and until the party intending to enter and take up the ſame, ſhall have given one full year's notice to ſuch patentee or grantee, of ſuch his intention; and in caſe ſuch patentee or grantee, ſhall not, within the year, obtain rights and ſue forth a patent for the ſurplus land by him held, it ſhall be lawful for the perſon who gave notice as aforeſaid, upon producing a certificate from the clerk of due proof of ſuch notice before the court of the county wherein ſuch patentee or grantee reſides, and to demand from the regiſter of the land-office, a warrant to the ſurveyor of the county wherein ſuch lands lie, to re-ſurvey at the proper charge of the perſon obtaining ſuch warrant, the whole tract within the bounds of the patent or grant, and upon ſuch perſon's returning into the land-office a plat and certificate of ſuch re-ſurvey, together with the warrant on which it is founded, and obtaining and producing new rights, for all the ſurplus land found within the ſaid bounds, he may ſue forth and obtain a new grant for ſuch ſurplus, which ſhall be granted to him in the ſame manner as waſte or unappropriated land; but the former patentee or grantee may aſſign ſuch ſurplus land in any part of his tract as he ſhall think fit, in one entire piece, the breadth of which ſhall be at leaſt one third of the length, and in ſuch new grant there ſhall be a recital of the original patent or grant, the re-ſurvey of which the ſurplus was aſcertained, and of other material circumſtances. *(b)*

XLVII. *Provided always*, That if upon notice given as aforeſaid, the original patentee or grantee ſhall, within the year, re-ſurvey his tract, and it be thereupon found that he hath no more than the quantity of land expreſſed in his patent or grant, with the allowance herein after mentioned, the party giving ſuch notice ſhall be liable to pay all charges of ſuch re-ſurvey, for which he ſhall give ſufficient ſecurity to the ſaid patentee or grantee, at the time of the notice, otherwiſe ſuch notice ſhall be void and of no effect: and moreover, for his unjuſt vexation, ſhall alſo be liable to an action upon the caſe, at the ſuit of the party grieved; and that in all ſuch new ſurveys, the patentee or grantee ſhall have an allowance, at the rate of five acres in every hundred, for the variation of inſtruments. *(c)*

XLVIII. Where any perſon ſhall find any miſtake or uncertainty in the courſes or deſcription of the bounds of his land, and deſires to rectify the ſame, or ſhall hold two or more tracts of land adjoining to each other, and is deſirous to include them in one grant, he may in either caſe, having previouſly advertiſed his intentions, and the time of application, at the door of the court-houſe on two ſeveral court days, and alſo having given notice to the owners of the adjoining lands, preſent a petition to the court of the county in which the lands lie, reciting the nature and truth of the caſe, and ſuch court may, and i hereby empowered to order the ſurveyor of their county to re-ſurvey ſuch lands at th charge of the party, according to his directions, and the original or authentic title pape taking care not to intrude upon the poſſeſſions of any other perſon, and to return a fair pla and certificate of ſuch re-ſurvey into the ſaid court, to be examined and compared wit

(*a*) May 1779 c 13 § 3 (*b*) May 1779 c 13 § 4 (*c*) May 1779 c 13 § 5

the title papers; and if ſuch court ſhall certify that, in their opinion, ſuch re-ſurvey is juſt and right, the party may return the ſame, together with his material title papers into the land-office, and demand the regiſter's receipt for them; and in caſe any caveat ſhall be entered againſt his obtaining a new grant upon ſuch re-ſurvey, the ſame proceedings ſhall be had therein, as is directed in the caſe of other caveats, and the court upon hearing the ſame, may either prohibit ſuch new grant, or vacate the caveat, as to them ſhall ſeem juſt; but if no caveat ſhall be entered within ſix months after ſuch return, or if a caveat ſhall be entered and vacated as aforeſaid, the party upon producing new rights for whatever ſurplus land appears to be within the bounds, more than the before mentioned allowance of five acres for every hundred, may ſue out and obtain a new grant for ſuch lands thereupon, in which ſhall be recited the dates and other material circumſtances of the former title, and the title papers ſhall be delivered by the regiſter to the new owner. *(a)*

XLIX. The judges of the general court ſhall once in every year, and oftener if they ſee cauſe, appoint two or more capable perſons, to examine the record books and papers in the land-office, and report in what condition and order they are kept, who ſhall compare all warrants of ſurvey returned to the ſaid office executed, with the liſt of thoſe iſſued therefrom, and cancel all ſuch as ſhall appear to have been properly executed or exchanged, an account of which ſhall be kept by the regiſter, charging therein thoſe iſſued, and giving credit for thoſe cancelled as aforeſaid; but no original warrant ſhall be burnt or otherwiſe deſtroyed, but ſhall be regularly filed in the land-office with the title papers. *(b)*

L. No original plat and certificate of ſurvey, once received and carried into grant, ſhall thereafter be delivered out of the land-office, but ſhall remain amongſt the other evidences of the title. *(b)*

LI. The regiſter of of the land-office ſhall account for with the auditor, and pay regularly into the treaſury, at the end of every ſix months, all fees by him received from time to time, making oath that the fees ſo accounted for, are the whole profits accruing from the ſaid office, ſo far as he knows or believes, up to the date of ſuch account; and moreover his accounts of fees received, ſhall be fairly ſtated and compared by the auditor with the books of his office, before the account ſhall be paſſed. If the regiſter of the land-office ſhall at any time fail to account, according to the directions of this act, for the ſpace of ſix months, he ſhall forfeit and pay the ſum of ten thouſand dollars, to be recovered in the name of the governor or chief magiſtrate for the time being, in any court of record, by the auditor, on thirty days previous notice; and the onus probandi ſhall lie on the defendant. *(c)*

LII. On receiving each ſurvey into the regiſter's office, the fees eſtabliſhed by law, that will accrue on the ſame, including the iſſuing of the grant thereupon, ſhall be paid; and if the regiſter ſhall credit any perſon, he ſhall account for the fees ſo credited in the ſame manner as if they had been received. *(c)*

LIII. Whenſoever any county court ſhall be ſo divided in the recommendation of a ſurveyor, that neither of the candidates ſhall be recommended, it ſhall bo lawful for the high ſheriff of ſuch county, and he is hereby required, to vote in favor of one of thoſe candidates between whom the court ſhall be divided. *(d)*

LIV. It ſhall not be lawful for any county ſurveyor, hereafter to withhold from any perſon entitled to demand the ſame, a plat by him demanded; and every ſurveyor out of office, ſhall have the ſame remedy for fees due to him, as is hereby given to the acting ſurveyors: *Provided*, that no ſurveyor ſhall be obliged to deliver a plat of land to any perſon or perſons not reſident within the ſtate, before the fees for the ſame ſhall be paid, or ſuch ſecurity given for the payment thereof, as to him ſhall be deemed ſufficient. *(e)*

LV. The ſurveyor or ſurveyors of any county or counties from which a new county hath been taken, or hereafter ſhall be taken, ſhall, within one month after ſuch diviſion

(a) 1779 c 13 § 6 *(b)* 1789 c 43 § 1 *(c)* 1784 c 51 § 2 *(d)* 1787 c 23 § 2 *(e)* 1787 c 52 § 3

takes place, make out, and on application, deliver to the ſurveyor of the new county, atteſted copies of all entries made upon lands within ſuch new county, on his books, and not ſurveyed, together with the warrants upon which they were founded; for which ſervice, he ſhall receive five cents for every ſuch atteſted copy, to be paid by the ſurveyer of the new county, upon receipt of the ſaid atteſted copies. And, in caſe any ſurveyor ſhall refuſe or neglect to make out, or deliver ſuch atteſted copies of entries within the time aforeſaid, or at the expiration of the ſaid time, upon the application of the ſurveyor of the new county, he ſhall forfeit and pay the ſum of one hundred and fifty dollars, to be recovered by action of debt or information, in any court of record, by any perſon who will ſue for the ſame; any law to the contrary, notwithſtanding. *(a)*

LVI. The court of every county, at ſome court between the firſt day of June, and the firſt day of September, which ſhall be in the year of our Lord, one thouſand ſeven hundred and ninety-five, and ſo between the firſt day of June and the firſt day of September in every fourth year thereafter, ſhall divide their counties into ſo many precincts, as to them ſhall ſeem moſt convenient, for proceſſioning every perſon's land in their reſpective counties, and ſhall appoint the particular times between the laſt day of September and the laſt day of March, then next coming, when ſuch proceſſioning ſhall be made in every precinct; and ſhall alſo appoint two or more intelligent, honeſt freeholders, of every precinct, to ſee ſuch proceſſioning performed, and to take and return to the ſaid court, an account of every perſon's land they ſhall proceſſion, and of the perſons preſent at the ſame, and what lands in their precinct they ſhall fail to proceſſion, and the particular reaſons of ſuch failure; a copy of which order ſhall be delivered by the clerk of every court, reſpectively, to the freeholders ſo appointed, within fifteen days after the making thereof; and the ſaid freeholders ſhall cauſe the ſame to be obeyed in every particular, and ſhall cauſe notice to be given at the moſt public places in their county, at leaſt three weeks before the ſame is to be performed, of the time appointed by them for proceſſioning, in each precinct; and the ſaid court ſhall alſo cauſe the accounts returned by the freeholders, to be regiſtered in particular books to be kept for that purpoſe by their clerk. Each proceſſioner ſhall be allowed by the court of his county, fifty cents for every day he ſhall be employed in the buſineſs; and every county court ſhall make a reaſonable allowance to the clerk thereof, for the ſervices to be performed by him, by virtue of this act; which ſeveral allowances ſhall be levied in their next county levy. *(b)*

LVII. And that no perſon may pretend ignorance, the court are alſo to direct what precinct or precincts in their county, reſpectively, every particular freeholder thereof ſhall attend and perform the proceſſioning as aforeſaid. And if any county court ſhall fail to make ſuch order as aforeſaid, every juſtice of the peace of ſuch county, ſhall forfeit and pay twenty-five dollars. And if any freeholder ſhall fail to obey and execute ſuch order, every freeholder failing, ſhall forfeit and pay fifteen dollars; and any county court clerk, failing to perform his duty as directed by this act, ſhall forfeit and pay twenty-five dollars.

LVIII. And if any other perſon not having lawful excuſe (to be judged of by the county court) ſhall fail to perform his duty as is herein before required, every perſon ſo failing, ſhall forfeit and pay fifteen dollars; one moiety of which ſeveral forfeitures ſhall be to the uſe of the poor of the county, and the other half to the informer, and may be recovered in any court of record within this commonwealth, having juriſdiction thereof.

LIX. *Provided always*, That in any ſuit, information, or petition brought againſt a magiſtrate of a county, or any other perſon, for any breach of this act, where the defendant ſhall give ſufficient evidence to the court, where the ſuit or information ſhall be depending, that he was neceſſarily abſent, or that, being preſent, he offered to do his duty, purſuant to this act, in ſuch caſe the ſuit or information as to ſuch defendant ſhall be diſmiſſed.

(a) 1788 c 51 *(b)* 1748 c 1, from which moſt of the other clauſes as to proceſſioning, have been taken.

LX. All and every proceſſioning the bounds of any perſons lands at three ſeveral times heretofore made according to the directions of the laws then in force, or hereafter to be made purſuant to the directions of this act, ſhall be held, and is hereby declared to be ſufficient to ſettle ſuch bounds, ſo as the ſame may never afterwards be altered; and every proceſſioning made in purſuance of, and conformably to the former laws, ſhall be, and is hereby declared to be one of the three times of proceſſioning by this act, held to be ſufficient.

LXI. When any controverſy ſhall hereafter happen between perſons, whoſe lands lie contiguous, about their reſpective bounds, and the owner or owners of ſuch lands ſhall refuſe to ſuffer the ſame to be proceſſioned, in ſuch caſe, the freeholders appointed as aforeſaid, ſhall within ten days after ſuch refuſal, certify the ſame under their hands to the court of the county wherein ſuch lands ſhall lie at their next ſeſſion, and ſuch court ſhall thereupon order their ſurveyor with a jury, to lay out the bounds in diſpute at the charge of the party againſt whom the right to ſuch bounds ſhall be determined, and to return ſuch ſurvey to the next court, after the ſame ſhall be made, which return ſhall be recorded by the county court clerk.

LXII. If ſuch lands ſhall happen to lie in two or more counties, then certificate as aforeſaid ſhall be returned to the court of each county, and the court of that county in which the beginning of ſuch controverted bounds ſhall lie, ſhall order their ſurveyor, with a jury of their county, to ſurvey the whole bounds in diſpute, and the ſheriff of each county wherein the ſame ſhall lie, to attend the ſurveyor in their reſpective counties; and ſuch ſurvey ſhall be made, returned, recorded, and regiſtered in the manner, and at the charge of the party againſt whom the right to ſuch bounds ſhall be determined. And all and every ſurvey and ſurveys, ſo as aforeſaid made and regiſtered, ſhall be held, deemed and taken to be a ſufficient proceſſioning of ſuch lands, to all intents and purpoſes, as if the ſame had been done by, and with the conſent of the owner thereof.

LXIII. *Provided always*, That the proceſſioning and ſettlement of the bounds of land held by any tenant for life only, ſhall not bar or conclude the heir in reverſion or remainder, but ſuch heir may at any time within ſix years after the death of ſuch tenant, controvert the bounds as if no proceſſioning or ſettlement had been made.

LXIV The proceſſioning and ſettling the bounds of lands belonging to any perſon then being within the age of one and twenty years, feme covert, non compos mentis, impriſoned, or not reſident within this commonwealth, ſhall not be concluſive to ſuch perſon or perſons, until ſix years after their reſpective incapacities or diſabilities ſhall be removed or determined.

LXV. The ſeveral penalties and forfeitures by this act laid, given or inflicted, ſhall and may be recovered with coſts, by action of debt, information, or petition, in any court of record within this commonwealth, wherein ſuch penalty or forfeiture ſhall be cognizable. *(a)*

The repealing clauſe is the ſame, in ſubſtance, as in the appendix No. 15.

December the 28th, 1795—but commenced Jan. 1, 1796.

§ I. WHEREAS it has been repreſented to this general aſſembly, that the act, "for reducing into one the ſeveral acts, concerning the land office; aſcertaining the terms and manner of granting waſte and unappropriated lands; directing the mode of proceſſioning; and preſcribing the duty of ſurveyors," is imperfect and productive of much inconvenience to this commonwealth and its citizens: For remedy whereof,

II. The regiſter of the land-office be, and he is hereby reſtrained from receiving in future into his office, any plat and certificate of ſurvey which evidently comprehend the

(a) Oct. 1783 c 32 § 7.

rights of others, and bear date ſubſequent to the firſt day of January next, notwithſtanding any deductions or reſervations; and all ſuch ſurveys hereafter made, ſhall henceforth be deemed illegal and void; but the party ſhall nevertheleſs retain all ſuch right as he may have derived under the act aforeſaid, by means of his location upon any waſte and unappropriated land within this commonwealth.

III. The warrant or warrants, on which a ſurvey is founded, ſhall accompany the ſame to the land-office, with a ſtatement on the back of the warrant or warrants from under the hand of the principal ſurveyor, ſpecifying the location or locations made thereon, and of the quantity actually ſatisfied by ſurvey. And ſhould more than one ſurvey be made by virtue of one warrant, the ſame ſhall accompany the firſt ſurvey, and a certificate the after ſurvey, purporting in what previous ſurvey the ſame was ſent; and in caſe the warrant or warrants ſo ſent, be not wholly located, then the claimant or claimants ſhall procure an exchange warrant or warrants from the regiſter, as he, ſhe, or they may elect for the reſidue. And in future no ſurveyor ſhall be authoriſed to receive locations or entries in his office upon a certificate of another ſurveyor.

IV. On all plats and certificates of ſurvey already returned to the regiſter's office, or which ſhall hereafter be returned, that the regiſter iſſue grants in the name of the perſon or perſons, or their aſſignees, in whoſe name the ſurvey is made, and to no other perſon, and that he ſhall not deliver the grants to any perſon but thoſe in whoſe name they ſhall iſſue, or their order atteſted by one witneſs, which orders he ſhall carefully file and preſerve.

V. The preſent regiſter proceed without delay, to open new records and regiſters, for the recording grants, plats and certificates of ſurvey, and the regiſtering all warrants and titles iſſued in purſuance thereof, under the laſt act of aſſembly for diſpoſing of waſte and unappropriated lands in this commonwealth.

VI. The regiſter of the land office for his ſervices, be allowed the ſum of three hundred pounds per annum, and the executive are hereby empowered from time to time to regulate the number of clerks which may be neceſſary to be employed by the regiſter for performing the duties of that office, the principal one of whom ſhall be allowed five hundred dollars per annum, and the reſidue of them ſuch compenſation as the executive may deem reaſonable and adequate for their ſervices; to be paid in like manner as the reſt of the civil liſt are paid.

VII. The firſt ſection of the act paſſed at the laſt ſeſſion of aſſembly, intituled, "An act giving further time to the owners of certain ſurveys to return the plats and certificates thereof, into the land-office, and a further time to the owners of entries on the weſtern waters to ſurvey the ſame," be, and the ſame is hereby continued for twelve months from and after the thirty-firſt day of December, one thouſand ſeven hundred and ninety-five: So much of the above recited clauſe as relates to lands on the eaſtern waters, ſhall be ſo conſtrued as only to authoriſe the regiſter of the land-office to receive plats and certificates of ſurvey made on locations under the commonwealth's land warrants.

VIII. Where it has happened that any county court within this commonwealth, have failed to appoint proceſſioners according to the above recited act, in conſequence of the acts of aſſembly not having been received by them in due time, it ſhall be lawful for ſuch county court, between the firſt day of April and the firſt day of September, which ſhall be in the year of our Lord, one thouſand ſeven hundred and ninety-ſix, to appoint proceſſioners according to the directions of the above recited act, to remain in office until the expiration of the time for which ſuch proceſſioners were directed to remain in office by the ſaid recited law; and from and after that time to be appointed between the periods, and in manner therein directed. Each proceſſioner ſo appointed, and all others appointed, and to be appointed, under this, or the ſaid recited act, ſhall be allowed by the court of his county, fifty cents, for every day he ſhall be employed; and in caſe of the death, reſignation, or

removal from office of any ſuch proceſſioner, the court of the county where ſuch vacancy ſhall happen are hereby authoriſed to appoint a ſucceſſor.

IX. Wherever it ſhall happen that any tract of land within this commonwealth, ſhall lie in two precincts, and within the ſame county, ſuch tract of land thus ſituated ſhall be proceſſioned in that precinct where the beginning ſhall be: *Provided nevertheleſs*, that the operation of this and the above recited act, ſo far as they reſpect ſettling the titles and bounds, and directing the mode of proceſſioning lands on the weſt ſide of tne blue ridge, ſhall be ſuſpended for and during the term of four years, from and after the paſſage of this act.

X. And whereas by the fifth ſection of the act firſt recited, a conſideration of one dollar per acre is required for all lands indiſcriminately, which may have become forfeited to this commonwealth, for the non-payment of the taxes due thereon, which hath been found to be highly injurious to the ſaid commonwealth, by reaſon of the difference of its value in different parts of this commonwealth: For remedy whereof, whenſoever any perſon ſhall in future be deſirous of locating ſuch lands, they ſhall in the firſt inſtance procure from the commiſſioners of the land tax, within whoſe precincts the ſame may lie, a certificate of the price at which ſuch lands ſtand charged, which certificate being delivered to the auditor, ſhall entitle the party to an order on the treaſurer for the receipt of ſo much money as ſuch lands may ſtand charged at, which being paid, and other requiſites of the ſaid act complied with, ſhall entitle the party to all ſuch right as the commonwealth may have had therein by means of the non payment of ſuch taxes.

XI. All acts and parts of acts, coming within the purview of this act, ſhall, and are hereby repealed.

December the 3d, 1795.

THE further time of one year to be computed from the firſt day of November, one thouſand ſeven hundred and ninety-ſix, ſhall be allowed to the owners of entries on the weſtern waters, to ſurvey the ſame, in ſuch manner as is directed by law.

LANDS. *See Public Debts—See Taxes.*

LAWS OF VIRGINIA.

December the 28th, 1792.

§ I. WHEREAS the general aſſembly, at their preſent ſeſſion, have directed a republication of the laws of this commonwealth, which are of a general concern, among which certain acts ſubſequent in their date to other acts on the ſame dubject, have no repealing clauſes, and inconveniences may ariſe from the omiſſion thereof:

II. All and every act and acts, clauſe and clauſes, part and parts of acts, antecedent to, and within the purview of an act paſſed by the general aſſembly of this commonwealth, at their ſeſſion in October, one thouſand ſeven hundred and ninety-five, intituled, "An act to prevent the circulation of private bank notes," one other act paſſed at the ſame ſeſſion, intituled, "An act concerning Eſtrays," one other act of the ſame ſeſſion, intituled, "An act concerning public roads," and one act paſſed at their ſeſſion in the year one thouſand ſeven hundred and eighty-ſix, intituled, "An act againſt uſury," one other act of the ſame ſeſſion, intituled, "An act preſcribing a method of proteſting inland bills of exchange, and allowing aſſignees of obligations to bring actions thereupon in their own names," and one other act paſſed in their ſeſſion of one thouſand ſeven hundred and eighty-ſeven, intituled, "An act for the relief of perſons who have been or may be injured by

the deſtruction of the records of county courts," for ſo much of every ſuch act, clauſe or part of act as relates to any ſubject, matter or thing, within all or any of the proviſions in the ſaid recited acts, or either of them contained, ſhall be, and the ſame are hereby as fully repealed, as if the ſaid recited acts had ſeverally contained a clauſe repealing former acts on the ſame ſubject.

December the 28th, 1792.

WHERE any of the laws of this commonwealth expreſs any ſum or ſums of money, in pounds, ſhillings and pence, the clerks of the ſeveral courts within this commonwealth, in all proceſs, entries, and orders reſpecting the ſame, ſhall reduce ſuch ſum or ſums of money into dollars and cents; and where any quantity or quantities of tobacco ſhall be expreſſed in the ſaid laws, the clerk ſhall in like manner reduce the ſame into dollars and cents, at the rate of two dollars per hundred weight.

December the 28th, 1792.

§ I. THE operation of all the acts paſſed during the preſent ſeſſion of aſſembly, which are of a public and permanent nature, ſhall be and the ſame are hereby ſuſpended until the firſt day of October, one thouſand ſeven hundred and ninety-three.

II. *Provided neverthelefs*, That nothing herein contained ſhall be conſtrued ſo as to ſuſpend the operation of the following acts, viz. "An act for appointing electors to chooſe a preſident and vice-preſident of the United States," "An act giving further time to the owners of entries on the weſtern waters to ſurvey the ſame," "An act for reducing into one act, the ſeveral acts concerning the court of appeals and ſpecial court of appeals," "An act for regulating the militia of this commonwealth," "An act for arranging the counties of this commonwealth into diſtricts, to chooſe repreſentatives to congreſs," "An act for appropriating the public revenue," "An act remitting certain militia fines," "An act giving further time to the owners of ſurveys to return the ſame into the land-office," "An act for aſcertaining the ſalaries to the officers of civil government," An act for eſtabliſhing a bank in the town of Alexandria," "An act empowering the executive to advance to the public printer a ſum of money for the purpoſes therein mentioned," "An act to amend the act, intituled, an act authoriſing the executive to direct the ſheriffs to ſell lands the property of this commonwealth," "An act for reducing into one, the ſeveral acts of aſſembly for the inſpection of tobacco," "An act to reduce into one, the ſeveral acts concerning the recovery of debts due to the public, and the ſale of lands for judgments on behalf of the commonwealth againſt public officers," "An act to reduce into one, the ſeveral acts concerning the county and other inferior courts of this commonwealth," "An act repealing the act, intituled, an act providing a ſinking fund for the gradual redemption of the public debt," "An act reducing into one, the ſeveral acts concerning the eſtabliſhment, juriſdiction, and powers of diſtrict courts," "An act to authoriſe the executive to remit damages in certain caſes," "An act reducing into one, the ſeveral acts concerning the high court of chancery," "An act for impoſing a public tax for the year one thouſand ſeven hundred and ninety-two," "An act reducing into one, the ſeveral acts concerning the general court, and preſcribing the manner of proceeding therein in certain caſes," "An act for reducing into one, the ſeveral acts concerning executions, and for the relief of inſolvent debtors," "An act authoriſing the general court to appoint a clerk pro tempore," "An act concerning coin," "An act reducing into one, the ſeveral acts concerning the fees of certain officers, and declaring the mode of diſcharging the ſaid fees and county levies," "An act reducing into one, the ſeveral acts for regulating the inſpection of flour and bread," "An act for eſtabliſhing a bank in the city of Richmond," "An act to provide more effectually for the collection of the public taxes in certain caſes," and, "An act declaring, what remedy the commonwealth ſhall have in certain caſes."

December the 4th, 1795.

§ I. WHEREAS it is repreſented to the preſent general aſſembly, that an opportunity now exiſts for collecting all the acts of the legiſlature, which in any manner relate to the landed property within the commonwealth: And whereas for the preſervation of a multitude of rightful titles to lands, it is neceſſary and expedient that a collection of ſuch laws ſhould be made and printed:

II. A collection be made of all and ſingular the laws, and parts and clauſes of every law, whether private or public, relative to all and ſingular the lands, tenements, and hereditaments whatſoever, or any of them within this commonwealth, at any time heretofore paſſed, and enacted, from the firſt ſettlement of Virginia, until the firſt day of October, in the year one thouſand ſeven hundred and ninety-three, which ſhall be printed and publiſhed in octavo, well bound in calf-ſkin.

III. George Wythe, John Brown, John Marſhall, Buſhrod Waſhington, and John Wickham, or any three of them be, and hereby are requeſted and authoriſed, to collate the ſaid laws, and to controul, direct, ſuperintend and reviſe the edition thereof; and for this purpoſe to appoint a clerk to aſſiſt in the work, and eſpecially in the making marginal notes, and an index thereto, who ſhall be paid a reaſonable compenſation for his ſervice, to be determined by the perſons herein before named, and approved by the executive.

IV. The edition conſiſt of at leaſt one thouſand copies, one of which ſhall be ſent or delivered by the executive to the clerk of each houſe of the general aſſembly, one to the clerk of the executive for their uſe, one to the regiſter of the land-office, and one to each and every clerk of any court of record in the commonwealth, and the reſidue ſhall and may be ſold, and the proceeds paid by the printer into the public treaſury, for and on account of the commonwealth, for the purpoſe of reimburſing the public treaſury, the coſts and expences of the ſaid edition, which ſhall and may be paid and advanced, out of the contingent fund.

V. Until a ſum ſufficient for reimburſing the coſts aforeſaid ſhall be raiſed from the ſale as aforeſaid directed, it ſhall not be lawful for the printer directly or indirectly, or any other perſon, to vend or ſuffer to be ſold any of the ſaid books, otherwiſe than for the uſe of the ſaid commonwealth, as aforeſaid; and the printer to be employed ſhall take an oath and give bond and ſecurity at the time of contract, well and truly to demean himſelf in all things according to the directions of this act, which oath may be taken before any magiſtrate and certified and tranſmitted with the bond to the executive.

LIMITATION OF ACTIONS, JEOFAILS, AND PROCEEDINGS IN CIVIL CASES.

December the 19th, 1792—but commenced Oct. 1, 1793.

§ I. ALL writs of formedon in deſcender, remainder, or reverter of any lands, tenements, or hereditaments whatſoever, hereafter to be brought upon any title or cauſe heretofore accrued or which may hereafter fall or accrue, ſhall be ſued out within twenty years next after ſuch title or cauſe of action accrued, and not afterwards; and that no perſon or perſons who now hath or have, or hereafter may have any right or title of entry into any lands, tenements, or hereditaments, ſhall make any entry but within twenty years next after ſuch right or title accrued, and ſuch perſon ſhall be barred from any entry afterwards. *(a)*

II. *Provided nevertheleſs*, That if any perſon or perſons entitled to ſuch writ or writs, or to ſuch right or title of entry as aforeſaid, ſhall be, or were under the age of one and twenty years,

(a) 22 Geo. II. c 1 § 15.

feme covert, non compos mentis, impriſoned, or not within this commonwealth at the time of ſuch right or title accrued, or coming to them, every ſuch perſon, and his or her heirs, ſhall and may, notwithſtanding the ſaid twenty years are, or ſhall be expired, bring and maintain his action, or make his entry, within ten years next after ſuch diſabilities removed, or the death of the perſon ſo diſabled, and not afterwards. *(a)*

III. In all writs of right, and other actions poſſeſſory, any perſon may maintain a writ of right upon the poſſeſſion or ſeizin of his anceſtor or predeceſſor, within fifty years, or any other poſſeſſory action upon the poſſeſſion or ſeizin of his or her anceſtor or predeceſſor, within forty years, next before the teſte of the writ; but no perſon ſhall maintain a real action upon his own poſſeſſion or ſeizin, but within thirty years next before the teſte of the writ. *(b)*

IV. All actions of treſpaſs quare clauſum fregit, all actions of treſpaſs, detinue, action ſur trover, and replevin for taking away of goods and chattels, all actions of account, and upon the caſe, other than ſuch accounts as concern the trade of merchandiſe between merchant and merchant, their factors, or ſervants; all actions of debt, grounded upon any lending, or contract without ſpecialty; all actions of debt for arrearages of rent; all actions of aſſault, menace, battery, wounding and impriſonment, or any of them, which ſhall be ſued or brought, ſhall be commenced and ſued within the time and limitation hereafter expreſſed, and not after, that is to ſay: The ſaid actions upon the caſe, other than for ſlander, and the ſaid actions for account, and the ſaid actions for treſpaſs, debt, detinue, and replevin for goods and chattels, and the ſaid action of treſpaſs quare clauſum fregit, within five years next after the cauſe of ſuch action or ſuit, and not after; and the ſaid actions of treſpaſs, of aſſault, battery, wounding, impriſonment, or any of them, within three years next after the cauſe of ſuch actions or ſuits, and not after; and the ſaid action upon the caſe for words, within one year next after the words ſpoken, and not after. *(c)*

V. Judgments in any court of record within this commonwealth, where execution hath not iſſued, may be revived by ſcire facias, or any action of debt brought thereon, within ten years next after the date of ſuch judgment, and not after; or where execution hath iſſued and no return is made thereon, the party in whoſe favor the ſame was iſſued ſhall and may obtain other executions, or move againſt any ſheriff or other officer, or his or their ſecurity, or ſecurities, for not returning the ſame for the term of ten years from the date of ſuch judgment, and not after.

VI. *Provided*, That if any perſon or perſons entitled to ſuch judgment, where execution hath not iſſued, or where execution hath iſſued, and no return made, (in either caſe) ſhall be, or were under the age of twenty-one years, feme covert, non compos mentis, impriſoned, or not within this commonwealth at the time of ſuch judgment being awarded, whether execution hath iſſued thereon or not, every ſuch perſon, his or her heirs, executors or adminiſtrators, ſhall and may, notwithſtanding the ſaid ten years are or ſhall be expired, have the benefit of ſaid judgment where no execution hath iſſued by reviving the ſame by ſcire facias, or by action of debt, and where execution hath iſſued, and no return made, every ſuch perſon or perſons, his or her heirs, executors or adminiſtrators, may have the benefit of other executions, or may move againſt any ſheriff or other officer, or his or their ſecurity, or ſecurities, for the ſame within five years after ſuch diſabilities removed, and not after.

VII. All actions or ſuits founded upon any account for goods, wares, and merchandiſe ſold and delivered, or for any articles charged in any ſtore account, ſhall be commenced and ſued within one year next after the cauſe of ſuch action or ſuit, or the delivery of ſuch goods, wares, and merchandiſe, and not after; except that in caſe of the death of the creditors or debtors, before the expiration of the ſaid term of one year, the further time of one year from the death of ſuch creditor or debtor, ſhall be allowed for the commencement of any ſuch action or ſuit. *(d)*

(a) 22 Geo. II. c 1 § 19 *(b)* 22 Geo. II. c 1 § 20 *(c)* 4 Ann c 8 § 1 *(d)* 1779 Oct. c 3 § 2.

VIII. And to prevent impoſition or deception herein, the reſpective time or date of the delivery of the ſeveral articles charged in any ſuch account, or any receipt taken for the delivery of them, ſhall be particularly ſpecified. And if any merchant or trader ſhall wilfully poſt-date, any article or articles in ſuch account, or the receipt taken for the delivery of them, he ſhall forfeit and pay ten fold the amount of the article or articles, or of the receipt taken for the delivery of them, ſo poſt-dated, to be recovered with coſts in any court of record, by petition, where the penalty incurred ſhall be under ſixteen dollars and ſixty cents, or amounts to that ſum only, and by action of debt or information, where the penalty ſhall be more than ſixteen dollars and ſixty-ſix cents, to the informer, where the informer proſecutes, or to the commonwealth, where the proſecution ſhall be firſt inſtituted on the public behalf. *(a)*

IX. And to prevent any doubt in the conſtruction hereof, it is hereby declared, that the before mentioned limitation of one year, ſhall take place and be computed, from the reſpective dates or times of delivery of the ſeveral articles entered or charged in any ſuch account; and that all ſuch articles as ſhall have been of more than one year's ſtanding when the action or ſuit was commenced, ſhall be diſallowed and rejected, and verdict ſhall be given, or judgment rendered for no more than the amount of ſuch articles as appear to have been actually charged or delivered within one year next before the commencement of the ſuit as aforeſaid. *(a)*

X. *Provided neverthelefs*, That if in any of the ſaid actions or ſuits, judgment be given for the plaintiff, and the ſame be afterwards reverſed by error, or a verdict paſs for the plaintiff, and upon matter alledged in arreſt of judgment, the judgment be given againſt the plaintiff, that he take nothing by his plaint, writ or bill, in all ſuch caſes the party plaintiff, his heirs, executors, or adminiſtrators (as the caſe ſhall require) may commence a new action or ſuit, from time to time, within one year next after ſuch judgment reverſed, or ſuch judgment given againſt the plaintiff, and not after. *(b)*

XI. *Provided always*, That in all queſtions which may ariſe in any court of record upon any act for limitation of actions, making entries into lands, or limitation of evidence, in the computation of time, the ſeveral periods between the twelfth day of April, one thouſand ſeven hundred and ſeventy-four, and the twelfth day of April, one thouſand ſeven hundred and ſeventy-eight, and between the firſt day of January, one thouſand ſeven hundred and eighty-one, and the firſt day of January, one thouſand ſeven hundred and eighty-two, and between the fifth day of May, one thouſand ſeven hundred and eighty-three, and the twentieth day of October, in the ſame year, ſhall not be accounted any part thereof, ſo as to bar ſuch action, entry, or evidence. *(c)*

XII. *Provided alſo*, That if any perſon or perſons that is or ſhall be entitled to any ſuch action or treſpaſs, detinue, action ſur trover, replevin, actions of account, actions of debt, actions of treſpaſs, for aſſault, menace, battery, wounding, or impriſonment, be, or ſhall be, at the time of any ſuch cauſe of action given or accrued, fallen or come, within the age of twenty-one years, feme covert, non compos mentis, impriſoned, beyond the ſeas, or out of the country, that then ſuch perſon or perſons ſhall be at liberty to bring the ſame actions, ſo as they take the ſame within ſuch times as are before limited after their coming to, or being of full age, diſcovert, of ſane memory, at large, and returned from beyond the ſeas, or from without this country, as by other perſons, having no ſuch impediment, ſhould be done. *(d)*

XIII. *Provided always*, That all ſuits hereafter brought in the name or names of any perſon or perſons reſiding beyond the ſeas, or out of this country, for recovery of any debt due for goods actually ſold and delivered here, by his or their factor, or factors, ſhall be commenced and proſecuted within the time appointed and limited by this act, for bringing the

(a) Oct. 1779 c 3 § 2 *(b)* 4 Ann c 8 § 2 *(c)* Oct. 1777 c 23 § 2—May 1781 c 9 § 2—Nov. 1781 c 12—May 1783 c 41—Oct. 1783 c 26 *(d)* 4 Ann c 8 § 5.

like ſuits, and not after, notwithſtanding the ſaving herein before contained, to perſons beyond the ſeas at the time their cauſes of action accrued. *Provided nevertheleſs*, that if any factor ſhall happen to die before the expiration of the time in which ſuit ſhould have been brought, ſuch principal ſhall be allowed two years from the death of ſuch factor, to commence and proſecute his, her, or their action, for any debt due to him, her, or them, on account of any contract or dealing with ſuch factor. *(a)*

XIV. *Provided alſo*, That if any perſon or perſons, defendant or defendants to any of the aforeſaid actions, ſhall abſcond or conceal themſelves, or by removal out of the country, or the county where he or they do or ſhall reſide, when ſuch cauſe of action accrued, or by any other indirect ways or means, defeat or obſtruct any perſon or perſons who have title thereto, from bringing or maintaining all, or any of the aforeſaid actions within the reſpective times limited by this act, that then and in ſuch caſe, ſuch defendant or defendants are not to be admitted to plead this act in bar to any of the aforeſaid actions; any thing in this act in any wiſe to the contrary notwithſtanding. *(b)*

XV. *Provided alſo*, That this act ſhall not extend to any action which ſhall be commenced againſt any maſter or commander of a ſhip or veſſel, who ſhall diſcharge or cauſe to be put on ſhore any ſick or diſabled ſailor belonging to his ſhip or veſſel, or any ſervant without taking due care for their maintenance and cure, or carrying any debtor, ſervant, or ſlave out of this commonwealth contrary to law.

XVI. And for the relief of the good people of this commonwealth againſt cauſeleſs and vexatious ſuits, and for the better enabling them to recover their juſt rights. In all actions of aſſault and battery, and ſlander, commenced and proſecuted in any diſtrict court, if the jury find under the ſum of ſixteen dollars and ſixty-ſix cents, and in the like actions commenced and proſecuted in any county court, if the jury find under ſix dollars and ſixty-ſix cents, the plaintiff in either caſe, ſhall not recover any coſts. *(c)*

XVII. And in all actions of treſpaſs, and all other perſonal actions, where the court before whom the trial ſhall be, ſhall not be ſatisfied, and enter upon the record, that the freehold, title, or intereſt of land mentioned in the plaintiff's declaration, was or might have been in queſtion, or that the treſpaſs was wilful or malicious, if the jury find under ſix dollars and ſixty-ſix cents, the plaintiff ſhall not recover more coſts than damages; and if more coſts are awarded, the judgment ſhall be void, and ſhall be amended upon a motion at any time, by the court who awarded the ſame, and the party injured ſhall be redreſſed, as to ſuch coſts ſo wrongfully awarded, in caſe the ſame be levied upon him. And where ſeveral perſons ſhall be made defendants in any action of treſpaſs, aſſault, falſe impriſonment, or ejectment, and upon the trial thereof, any one or more of them ſhall be acquitted by verdict, every defendant ſo acquitted ſhall have and recover his coſts of ſuit in like manner as if a verdict had been given againſt the plaintiff or plaintiffs and acquitted all the defendants, unleſs the court before whom ſuch cauſe ſhall be tried, ſhall be ſatisfied that there was reaſonable cauſe for making ſuch perſon or perſons defendant or defendants to ſuch action, and ſhall order it otherwiſe; and in all caſes where judgment ſhall be given for the defendant he ſhall recover his coſts againſt the plaintiff, and have execution for the ſame. *(d)*

XVIII. *Provided always*, That nothing herein contained, ſhall be conſtrued to extend to executors or adminiſtrators, in ſuch caſes where by the law they are not liable to the payment of coſts of ſuit. *(d)*

XIX. And in all actions of treſpaſs quare clauſum fregit hereafter to be brought, wherein the defendant or defendants ſhall diſclaim, in his or their plea, to make any title or claim to the land in which the treſpaſs is by the declaration ſuppoſed to be done, and the treſpaſs be by negligence or involuntary, the defendant or defendants ſhall be admitted to

(a) 28 Geo. II. c 2 § 7, 8, 9. (b) 4 Ann c 8 § 6. (c) 22 Geo. II. c 5 § 1, 2. (d) 22 Geo. II. c 5 § 3. (d) 23 Geo. II. c § 4.

plead a diſclaimer, and that the treſpaſs was by negligence or involuntary, and a tender or offer of ſufficient amends for ſuch treſpaſs, before the action brought, whereupon, or upon ſome of them, the plaintiff or plaintiffs ſhall be enforced to join iſſue; and if the ſaid iſſue be found for the defendant or defendants, or the plaintiff or plaintiffs ſhall be non-ſuited, the plaintiff or plaintiffs ſhall be clearly barred from the ſaid action or actions, and all other ſuits concerning the ſame. *(a)*

XX. In all actions where the plaintiff ſhall die after an interlocutory judgment, and before final judgment obtained therein, ſuch action ſhall not abate, if the ſame might be originally proſecuted or maintained by the executors or adminiſtrators of ſuch plaintiff; and if the defendant die after ſuch interlocutory judgment, and before final judgment, ſuch action ſhall not abate, if the ſame were originally maintainable againſt the executors or adminiſtrators of ſuch defendant, but the plaintiff, (or, if he be dead, after ſuch interlocutory judgment, his executors or adminiſtrators) ſhall and may have a ſcire facias againſt the defendant, if living, after ſuch interlocutory judgment, (or, if he died after, againſt his executors or adminiſtrators) to ſhew cauſe why damages in ſuch action ſhould not be aſſeſſed, and recovered by the plaintiff or plaintiffs; and if ſuch defendant, or his executors or adminiſtrators, ſhall appear at the return of ſuch writ, and not ſhew or alledge any matters ſufficient to arreſt the final judgment, or being returned warned, or upon two writs of ſcire facias, it be returned, that the defendant, or his executors or adminiſtrators, had nothing whereby to be ſummoned, or could not be found in the county, ſhall make default, a writ of enquiry of damages ſhall be thereupon awarded, which being executed, judgment final ſhall be given for the ſaid plaintiff, his executors or adminiſtrators proſecuting ſuch writ or writs of ſcire facias, againſt ſuch defendant, his executors or adminiſtrators. And if there be two or more plaintiffs or defendants, and one or more of them ſhould die, if the cauſe of action ſhould ſurvive to the ſurviving plaintiff or plaintiffs, or againſt the ſurviving defendant or defendants, the writ or action ſhall proceed, at the ſuit of the ſurviving plaintiff or plaintiffs, againſt the ſurviving defendant or defendants. And in all actions, real, perſonal and mixed, if either party ſhould die between verdict and judgment, ſuch death ſhall not be pleaded in abatement, but judgment ſhall be entered as if both parties were living, *(b)*

XXI. In all actions upon any bond, or on any penal ſum, for non-performance of covenants or agreements, in any indenture, deed or writing contained, the plaintiff or plaintiffs may aſſign as many breaches as he or they ſhall think fit; and the jury, upon trial of ſuch action or actions, ſhall and may aſſeſs damages for ſuch of the breaches as the plaintiff ſhall prove to have been broken, and on ſuch verdict the like judgment ſhall be entered as heretofore has been uſually done in ſuch actions. And where judgment on a demurrer, or by confeſſion, or nihil dicit, ſhall be given for the plaintiff, he may aſſign as many breaches of the covenants or agreements, as he ſhall think fit; upon which a jury ſhall be ſummoned, to enquire of the truth of every one of thoſe breaches, and to aſſeſs the damages the plaintiff ſhall have ſuſtained thereby, and execution ſhall iſſue for ſo much; and judgment ſhall remain as a ſecurity to the plaintiff, his executors and adminiſtrators, for any other breaches which may afterwards happen, and he or they may have a ſcire facias againſt the defendant, and aſſign any other breach, and thereupon damages ſhall be aſſeſſed, and execution iſſued as aforeſaid. And in all actions which ſhall be brought upon any bond or bonds, for the payment of money, wherein the plaintiff ſhall recover, judgment ſhall be entered for the penalty of ſuch bond, to be diſcharged by payment of the principal and the intereſt due thereon, and the other coſts of ſuit, and execution ſhall iſſue accordingly; or if before judgment the defendant ſhall bring into court the principal and intereſt due upon ſuch bond, he ſhall be diſcharged, and in that caſe judgment ſhall be entered for

(a) 4 Ann c 8 § 3 *(b)* 22 Geo. II. c 5 § 5

the coſts only. And in any action of debt on ſingle bill, or in debt, or ſcire facias upon a judgment, or in debt upon bond, if before action brought, the defendant hath paid the principal and intereſt due by the defeaſance or condition, he may plead payment in bar. *(a)*

XXII. All powers of attorney for confeſſing or ſuffering judgment to paſs by default or otherwiſe, and all general releaſes of error, made or to be made by any perſon or perſons whatſoever within this commonwealth, before action brought, ſhall be, and are hereby declared to be abſolutely null and void. *(b)*

XXIII. Every action at common law, or ſuit in equity, commenced in the name of a perſon not reſiding in Virginia, unleſs he be employed abroad in the ſervice of the commonwealth, or of the United States of America, ſhall be diſmiſſed, if ſecurity be not given with the clerk of the court from whence the proceſs ſhall iſſue, or wherein it ſhall be depending, within ſixty days after notice, ſhall at any time during ſuch non-reſidence, have been given to the demandant, or plaintiff, or his attorney, by ſome perſon intereſted, that ſuch ſecurity is required for payment of the coſts and damages which may be awarded to the tenant or defendant, and alſo of the fees which ſhall become due to the officers of the court. *(c)*

XXIV. Actions of account ſhall and may be brought and maintained againſt the executors or adminiſtrators of every guardian, bailiff and receiver, and alſo by one joint tenant or tenant in common, his executors or adminiſtrators, againſt the other as bailiff for receiving more than comes to his juſt ſhare or proportion, againſt the executors or adminiſtrators of ſuch joint tenant, or tenant in common. *(d)*

XXV. Proceſs in all real actions, other than writs of right, ſhall be according to the courſe of the common law, except that the returns ſhall be according to the laws of this commonwealth, but all eſſoins, views and vouchers be, and are hereby taken away; and after one imparlance, unleſs the tenant ſhall plead non-tenure, joint tenancy, or ſeveral tenancy, in abatement, and then, after ſuch plea ſhall be over-ruled, he ſhall put himſelf upon the grand aſſize, and the miſe ſhall be joined upon the mere right, and be tried at the next court by twelve jurors, to be ſummoned, tried, and ſworn as in all other actions. And to remove all delays and groundleſs pretences in ſaving the default of the tenant, no excuſe ſhall be admitted but non-ſummons; and ſuch excuſe being allowed, he may imparle, and at the next court, ſhall either plead in abatement, or put himſelf upon the grand aſſize, as aforeſaid. *(e)*

XXVI. No judgment after a verdict of twelve men, ſhall be ſtayed or reverſed for any defect or default in the writ original, or judicial, or for a variance in the writ from the declaration or other proceedings; or for any miſpleading, inſufficient pleading, diſcontinuance, misjoining of the iſſue, or lack of a warrant of attorney, or for the appearance of either party, being under the age of twenty-one years, by attorney, if the verdict be for him and not to his prejudice; or for not alledging any deed, letters teſtamentary, or commiſſion of adminiſtration, to be brought into court; or for omiſſion of the words "with force and arms," or "againſt the peace," or for miſtake of the chriſtian name, or ſurname of either party, ſum of money, quantity of merchandize, day, month, or year, in the declaration or pleading, (the name, ſum, quantity, or time being right in any part of the record or proceeding) or for omiſſion of the averment, "this he is ready to verify," or, "this he is ready to verify by the record," for not alledging "as appeareth by the record," or for omitting the averment of any matter, without proving which, the jury ought not to have given ſuch verdict, or for not alledging that the ſuit or action is within the juriſdiction of the court, or for any informality in entering up the judgment by the clerk; neither ſhall any judgment entered upon confeſſion, or by nil dicit, or non ſum informatus,

(a) 22 Geo. II. c 5 § 6 *(b)* 22 Geo. II. c 5 § 7 *(c)* 1786 c 64 *(d)* 22 Geo. II. c 3 § 7 *(e)* 22 Geo. II. c 1 § 21

be reverſed, nor a judgment after enquiry of damages be ſtayed or reverſed for any omiſſion or fault, which would not have been a good cauſe to ſtay or reverſe the judgment if there had been a verdict. *(a)*

XXVII. Where a demurrer ſhall be joined in any action, the court ſhall not regard any other defect or imperfection in the writ, return, declaration, or pleading, than what ſhall be ſpecially alledged in the demurrer, as cauſes thereof, unleſs ſomething ſo eſſential to the action or defence, as that judgment according to law, and the very right of the cauſe cannot be given, ſhall be omitted. *(b)*

XXVIII. In controverſies affecting lands, tenements, or hereditaments, poſſeſſion of part ſhall not be conſtrued a poſſeſſion of the whole, when an actual adverſe poſſeſſion can be proved. *(b)*

XXIX. Actual poſſeſſion need not be proved to maintain a writ of right. *(b)*

XXX. Private acts of aſſembly may be given in evidence without pleading them ſpecially. *(c)*

XXXI. Papers read in evidence, though not under ſeal, may be carried from the bar by the jury. *(d)*

XXXII. Interpreters may be ſworn truly to interpret when neceſſary. *(e)*

XXXIII. Every perſon deſirous of ſuffering a non-ſuit on trial, ſhall be barred therefrom, unleſs he do ſo before the jury retire from the bar. *(f)*

XXXIV. Not more than two new trials ſhall be granted to the ſame party in the ſame cauſe. *(g)*

XXXV. After iſſue joined in an ejectment on the title only, no exception of form or ſubſtance ſhall be taken to the declaration in any court whatſoever. *(h)*

XXXVI. Any inſtrument to which the perſon making the ſame, ſhall affix a ſcroll by way of ſeal, ſhall be adjudged and holden to be of the ſame force and obligation as if it were actually ſealed. *(i)*

XXXVII. If in detinue the verdict ſhall omit price or value, the court may at any time award a writ of enquiry to aſcertain the ſame. If on an iſſue concerning ſeveral things in one count in detinue, no verdict be found for part of them, it ſhall not be error, but the plaintiff ſhall be barred of his title to the things omitted. *(k)*

XXXVIII. Where there are ſeveral counts, one of which is faulty, and entire damages are given, the verdict ſhall be good; but the defendant may apply to the court, to inſtruct the jury to diſregard ſuch faulty count. *(l)*

XXXIX. An execution, writ, or other proceſs appearing to be duly ſerved in other reſpects, ſhall be deemed good, although it be not directed to any ſheriff. *(m)*

XL. Any judge of the general court, when the diſtrict court is not ſitting, or any juſtice of the peace, may take recognizance of ſpecial bail, in any action depending in any court of record within this commonwealth, which ſhall be tranſmitted by the perſon taking the ſame, before the next ſucceeding court, to the clerk of the ſaid court, to be filed with the papers in ſuch action: The form of which recognizance ſhall be in the following words, to wit:

" County to wit: Memorandum, That upon the day of in the "year , E. F. of the county of , perſonally appeared before me (one of "the judges of the general court, or a juſtice of the county aforeſaid, as the caſe may be) "and undertook for C. D. at the ſuit of A. B. in an action of now depending in "the [naming the court where the ſuit is depending] that in caſe the ſaid C. D. ſhall be "caſt in the ſaid ſuit, he the ſaid C. D. will pay and ſatisfy the condemnation of the court, "or render his body to priſon, in execution for the ſame, or that he the ſaid E. F. will "do it for him."

(a) 1789 c 28 § 1. *(b)* 1789 c 28 § 2 *(c)* 1789 c 28 § 3. *(d)* 1789 c 28 § 7. *(e)* 1789 c 28 § 9. *(f)* 1789 c 28 § 10 *(g)* 1789 c 28 § 11 *(h)* 1789 c 28 § 12. *(i)* 1789 c 28 § 13. *(k)* 1789 c 28 § 14, 35. *(l)* 1789 c 28 § 16. *(m)* 1788 c 67 § 75.

XLI. The perſon taking ſuch bail as aforeſaid, ſhall, if required, at the ſame time, deliver to the perſon or perſons acknowledging the recognizance aforementioned, a bail piece, in the words and form following, to wit:

" County to wit: C. D. of the pariſh of in the county aforeſaid, is de-
"livered to bail, on a cepi corpus unto E. F. of the pariſh and county aforeſaid, at the ſuit
"of A. B. the day of , in the year ."

XLII. Notice on replevy bonds, and all other legal occaſions, wherein no particular mode is, or ſhall be preſcribed, ſhall be good, if given to the party in perſon, or delivered in writing to any free white perſon above the age of ſixteen years, who ſhall be a member of the family of ſuch perſon, and ſhall be informed of the purpoſe of ſuch notice, or left at ſome public place, at the dwelling houſe, or other known place of reſidence of ſuch perſon. (*a*)

XLIII. A judgment on confeſſion, ſhall be equal to a releaſe of errors. (*b*)

XLIV. The laws of coſts ſhall not be interpreted as penal laws. (*c*)

XLV. For removing all doubts concerning the courts to which this act may apply, all things herein contained, ſhall be the rules of deciſion and proceedings in all courts whatſoever within this commonwealth. (*c*)

The repealing clauſe is the ſame in ſubſtance, as in the appendix No. 5.

LITERARY WORKS. This head is omitted, becauſe the power on this ſubject ſeems veſted in Congreſs.

LUMBER.

December the 26th, 1792—but commenced Oct. 1, 1793.

§ I. IT ſhall be lawful for the courts of the ſeveral counties and corporations within this commonwealth, to appoint ſo many inſpectors of lumber within their reſpective limits, as they ſhall deem neceſſary. (*d*)

II. The inſpectors ſo to be appointed, ſhall, before they enter on the execution of their office, give bond and ſecurity, in the ſum of one thouſand dollars, for the faithful performance of the duties of their office, and ſhall moreover take the following oath:

"I , do ſwear that I will well and truly demean myſelf as inſpector of
"lumber, without favor or affection, or partiality: So help me God."

And the inſpectors to be appointed by virtue of this act, ſhall in all caſes be governed by the following regulations; that is to ſay, all drawn white oak hogſhead ſtaves, ſhall not be leſs than forty two inches long, three inches wide, and three quarters of an inch thick, when green, and five eights of an inch, if ſeaſoned; white oak hogſhead heading, ſhall be twenty-eight, thirty, and thirty-two inches in length, with a due proportion of each length, and five inches in breadth, ſeven eighths or an inch thick, when green, and three quarters of an inch, if ſeaſoned; the ſtaves and heading aforeſaid, to be without ſap: Red oak hogſhead ſtaves, ſhall not be of leſs dimenſions than the white oak aforeſaid: Rough hogſhead ſtaves ſhall be at leaſt forty-two inches long, three and an half inches wide, and one inch thick: Barrel ſtaves ſhall be at leaſt thirty-two inches long, three and an half in-

(*a*) 1788 c 67 § 79. (*b*) 1789 c 28 § 17. (*c*) 1789 c 28 § 18. (*d*) 1787 c 18.

ches wide, and three quarters of an inch thick: Ppie ſtaves ſhall be at leaſt four feet and a half long, three inches wide, and one inch thick: Shingles ſhall not be leſs than eighteen inches long, four inches wide, and half an inch thick at the butt: And all plank, ſcantling, and ranging timber, ſhall be ſound, and have ſquare edges. *(a)*

III. The inſpectors of lumber, ſhall be entitled to demand and receive the following fees: For all hogſhead ſtaves and heading, twenty-five cents per thouſand: For all pipe ſtaves, thirty-three cents per thouſand: For all barrel ſtaves, ſeventeen cents per thouſand: For all ſhingles, ſix cents per thouſand: For all plank and ſcantling, fifty-ſix cents per thouſand: And for all ranging timber, forty-two cents per thouſand, and no more; to be paid by the perſon offering the ſame for inſpection; and the inſpectors ſhall be continued in office during good behaviour. *(a)*

IV. It ſhall not be lawful for any maſter, commander, or ſkipper of a veſſel, to receive on board his ſhip or veſſel, for exportation, any ſpecies of lumber enumerated in this act, without a note or certificate from ſome inſpector of lumber, that the ſame has been duly inſpected and paſſed; and the inſpectors are hereby directed to give ſuch note or certificate to the ſkipper of any ſmall craft lading any ſuch lumber, ſpecifying when and where inſpected, for whom, and the name of the ſhip or veſſel exporting the ſame; and the collector or other proper officer of the cuſtoms of the diſtrict, is hereby charged and directed not to ſuffer any veſſel to clear from his office, unleſs the maſter, commander or ſkipper of ſuch veſſel ſhall produce inſpectors notes or certificates for all lumber which he means to clear out, and ſhall alſo make oath, that he hath no lumber on board but what is particularly entered in his manifeſt. Any maſter, commander or ſkipper of a veſſel, who ſhall receive on board his veſſel for exportation, any lumber herein enumerated, without firſt obtaining the inſpector's note or certificate for the ſame, ſhall forfeit the lumber ſo taken on board, and ſixty dollars, to be recovered by action of debt, before any court of record within this commonwealth; one half of which fine ſhall be to the uſe of the perſon ſuing for the ſame, the other half to the uſe of the commonwealth. *(a)*

The repealing clauſe is the ſame in ſubſtance, as in the appendix No. 15.

LUNATICS. *See Ideots and Lunatics.*

MALICIOUS DISFIGURING, MALICIOUS MAIMING, MALICIOUS SHOOTING, AND MALICIOUS STABBING.

December the 17th, 1792—but commenced Oct. 1, 1793.

§ I. IF any perſon or perſons ſhall unlawfully cut out or diſable the tongue, put out an eye, ſlit a noſe, bite, or cut off a noſe, or lip, or cut off or diſable any limb or member of any perſon whatſoever, within the commonwealth; in ſo doing to maim or diſfigure, in any of the manners before mentioned, ſuch perſon, the perſon or perſons ſo offending, their counſellors, aiders, and abettors, knowing of, and privy to the offence, ſhall be, and are hereby declared to be felons, and ſhall ſuffer as in caſe of felony. *(b)*

II. If any perſon ſhall ſhoot, or ſtab any perſon within the commonwealth, with an intent to maim, diſfigure, or kill, the perſon or perſons ſo offending, their counſellors, aiders, and abettors, knowing of, and privy to the offence, ſhall be, and are hereby declared to be felons, and ſhall ſuffer as in caſe of felony.

The repealing clauſe is, in ſubſtance, as in the appendix No. 20.

(a) 1786 c 98 *(b)* 25 Geo. II. c 6—1781 c 28

MALICIOUS PROSECUTIONS. *See Criminals, Crimes, Offences and Profecutions.*

MARINE HOSPITAL.

December the 24th, 1794.

§ I. A TAX of thirty cents ſhall be, and is herebv impoſed on every ſailor, to be paid by the captain, maſter or owner of the veſſel on her return from a voyage at the time of making entry of ſuch veſſel.

II. Every captain, maſter or owner of a veſſel on his return from a voyage, ſhall at the time of entering his veſſel, give in upon oath to the collector a liſt of the names of ſailors in his veſſel, and moreover pay down the tax hereby impoſed, to be by him deducted out of their wages. If the captain, maſter or owner ſhall fail to give in ſuch liſt, he ſhall forfeit and pay the ſum of forty dollars, to be recovered by the collector with coſts on motion in any court of record in this commonwealth, provided the party has ten days previous notice of ſuch motion. If the captain, maſter or owner of any veſſel ſhall fail to pay down the amount of the tax as aforeſaid, it ſhall be lawful for the collector, and he is hereby required to recover the ſame by warrant, before a magiſtrate, where the ſum doth not exceed five dollars, and where it exceeds that ſum, by motion as before directed in caſe of failure to give in a liſt.

III. Every collector in this commonwealth on or before the firſt day of March next, ſhall enter into bond with ſufficient ſecurity in the court of the county where he reſides, in the penalty of four thouſand dollars, payable to the governor and his ſucceſſors, with condition for the due and faithful accounting for and paying all ſuch ſums of money as ſhall or may come to his hands by virtue of this act. Every collector ſhall render ſuch account quarterly to the treaſurer of the commonwealth, and pay to him the money he ſhall have received by virtue of this act, deducting a commiſſion of two and an half for his trouble in collecting and paying the ſame, and on failure thereof, ſuch collector ſhall forfeit and pay the ſum of eight hundred dollars, to be recovered by the treaſurer in any court of record in this commonwealth by motion, provided the collector has ten days previous notice of ſuch motion.

IV. All monies received by the treaſurer in virtue of this act ſhall be applied under the direction of the executive towards finiſhing and ſupporting the marine hoſpital in the town of Waſhington, in the county of Norfolk: *Provided*, that no ſeaman or mariner whatever, who ſhall arrive in any port of this commonwealth, (other than into the ports on James, York, Rappahannock and Elizabeth rivers) ſhall be conſidered as coming within the purview of this act. Any thing herein contained to the contrary notwithſtanding.

MARRIAGES.

December the 22d, 1792—but commenced Oct. 1, 1793.

§ I. NO miniſter ſhall celebrate the rites of matrimony between any perſons, or join them together as man and wife, wtihout lawful licenſe, or thrice publication of banns according to the rubrick in the book of common prayer, if the parties ſo to be married ſhall be members of the Proteſtant Epiſcopal Church; and if the perſons to be married dwell in ſeveral pariſhes, the banns ſhall be publiſhed in each pariſh, and the miniſter of the one ſhall not ſolemnize the matrimony, until he hath a certificate from the miniſter of the other pariſh, that the banns have been thrice publiſhed and no objection made againſt the parties joining together. And if any miniſter ſhall celebrate the rites of matrimony, or join any perſons in marriage, without ſuch licenſe or publication of banns as by this act

required, he ſhall, for every ſuch offence, be impriſoned one whole year without bail or mainprize, and ſhall alſo forfeit and pay fifteen hundred dollars. And if any miniſter ſhall go out of this government, and there join in marriage any perſon or perſons belonging to this commonwealth, without ſuch licenſe or publication of banns, he ſhall be liable to the ſame penalties and forfeitures, as if ſuch marriage had been by him celebrated within this commonwealth: *Provided always*, That where any pariſh or pariſhes have not a miniſter, the clerk or reader may publiſh banns, and if no objection be made, grant certificate thereof; which together with a certificate under the hand and ſeal of a juſtice of the peace for the ſaid county, living in the pariſh where ſuch publication ſhall be, certifying that the feme ſo to be joined, hath been an inhabitant of the ſaid pariſh one month next before the date of ſuch certificate, ſhall be ſufficient for the miniſter to ſolemnize the rites of matrimony; and if any miniſter, clerk or reader, ſhall grant or iſſue a falſe certificate, he ſhall ſuffer the impriſonment without bail and pay the forfeiture aforeſaid; and ſhall alſo be liable to be proſecuted and puniſhed as in caſe of forgery. And that all or any of the offences aforeſaid, may be proſecuted, tried and determined in any court of record within this commonwealth; which courts are hereby declared to have cognizance thereof, and may hear and determine the ſame, and award execution thereupon, according to the courſe of the common law. *And provided alſo*, That all publications of the banns of matrimony on the weſtern waters of this commonwealth, ſhall be made on three ſeveral days, and not in leſs time than two weeks, in open and public aſſemblies, convened for religious worſhip, or other lawful purpoſes, within the bounds of the reſpective congregations or militia companies in which the parties to be married ſeverally reſide; and for a certificate of ſuch publication, the perſon making the ſame, may demand and receive fifty cents.

II. It ſhall and may be lawful for any ordained miniſter of the goſpel in regular communion with any ſociety of chriſtians, and every ſuch miniſter is hereby authoriſed to celebrate the rites of matrimony according to the forms and cuſtoms of the church to which he belongs, between any perſons within this ſtate, between whom publication of banns ſhall have been duly made, or who ſhall produce a marriage licenſe purſuant to the directions of this act, directed to any authoriſed miniſter of the goſpel. (*a*)

III. *Provided always*, That evey ſuch miniſter ſhall firſt produce credentials of his ordination, and alſo of his being in regular communion with the chriſtian ſociety of which he is reputed a member, to the court of the county or corporation in which he reſides; ſhall take the oath of allegiance to this commonwealth, and enter into bond, with two or more ſufficient ſecurities, in the ſum of fifteen hundred dollars, payable to the governor for the time being, and his ſucceſſors, conditioned for the true and legal performance of this truſt: Whereupon ſuch court is hereby required to grant ſuch miniſter a teſtimonial in the following form, given under the hand and ſeal of the then ſitting judge or ſenior magiſtrate, and atteſted by the clerk, to wit:

"This ſhall certify to all whom it may concern, that at a court held for
"on the day of , in the year one thouſand hundred
"and A. B. produced credentials of his ordination, and alſo of his being in
"regular communion with the church; took the oath of allegiance to this
"commonwealth, and entered into bond as required by "An act to regulate the ſolemni-
"zation of marriages; prohibiting ſuch as are inceſtuous or otherwiſe unlawful; to pre-
"vent forcible and ſtolen marriages; and for puniſhment of the crime of bigamy;" and
"that he is thereby authoriſed to celebrate the rites of matrimony agreeable to the forms
"and cuſtoms of the ſaid church, between any perſons to him regularly applying therefor
"within this ſtate. Given under my hand and ſeal, the day and year above written."

(*a*) Oct. 1784 c 76.

Every teſtimonial ſo obtained, ſhall be taken as good and ſufficient authority for celebrating the rights of matrimony according to law: *Provided nevertheleſs*, That no teſtimonial ſhall be granted to any miniſter who is itinerant, or who is not ſtated and ſettled within ſome pariſh, or with ſome Chriſtian congregation within this commonwealth.

IV. *Provided alſo*, If any authoriſed miniſter ſhall himſelf at any time decline, or be ejected from his office by the church to which he belongs; or if any of his ſecurities ſhall give him notice in writing, that they deſire to be releaſed from their ſuretyſhip, in either of theſe caſes if he refuſes or neglects to give up his teſtimonials to the court from which they were obtained, any one of his ſecurities, without inſtituting a ſuit, may proceed againſt him as if they were ſpecial bail in an action of debt, until he is thereunto compelled, or gives them ſufficient caution for their indemnification.

V. It ſhall and may be lawful for the people called quakers and menoniſts, or any other Chriſtian ſociety, that have adopted ſimilar regulations in their church, to ſolemnize their own marriages, or to be joined together as huſband and wife by the mutual conſent of the parties openly publiſhed and declared before their congregations when convened for religious worſhip, in the manner, and agreeable to the regulations that have heretofore been practiſed in the reſpective ſocieties.

VI. And whereas ſome magiſtrates and others, not authoriſed by law, have been induced by the want of miniſters, to ſolemnize marriages:

VII. All ſuch marriages openly ſolemnized, and made at any time before the firſt day of July, one thouſand ſeven hundred and eighty-five, and which ſhall have been made, conſummated by the parties cohabiting together as husband and wife, ſhall be taken, and they are hereby declared good and valid in law; and all and every perſon or perſons ſolemnizing ſuch marriages, are and ſhall be exonerated from all pains and penalties, as if they had been authoriſed miniſters: *Provided always*, and it is the true intent and meaning of this act, that nothing herein contained, ſhall extend or be conſtrued to extend to confirm any marriage heretofore celebrated, or which may hereafter be celebrated between parties within the degrees of conſanguinity or affinity, forbidden by law, or where either of the parties were bound by a prior marriage, to a huſband or wife then alive.

VIII. Inſtead of the fees heretofore preſcribed by law, any authoriſed miniſter may demand and receive in current money, for the celebration of every marriage, the ſum of one dollar.

IX. If any miniſter ſhall refuſe to celebrate the rites of matrimony for the fees herein before allowed him, or ſhall exact other or greater fees; or if he or any pariſh reader or clerk ſhall refuſe to publiſh the banns, or to certify the ſame when required for the fee aforeſaid, or exact any other or greater fee, every perſon ſo offending, ſhall forfeit and pay fifty dollars to the party grieved for every ſuch offence, recoverable in any court within this commonwealth, by action of debt or information.

X. And that a regiſter of all marriages may be preſerved, a certificate of every marriage hereafter ſolemnized, ſigned by the miniſter celebrating the ſame, or in the caſe of quakers, menoniſts, and other ſocieties that ſolemnize their marriages by the conſent of the parties taken in open congregation as aforeſaid, by the clerk of the meeting, ſhall be by ſuch miniſter or clerk, (as the caſe may be) tranſmitted to the clerk of the county or corporation wherein the marriage is ſolemnized, within twelve months thereafter, to be entered on record by the clerk, in a book by him to be kept for that purpoſe, which ſhall be evidence of all ſuch marriages. The clerk ſhall be entitled to demand and receive of the party ſo married, the ſum of twenty-five cents for recording ſuch certificate, and giving the bearer a receipt therefor. *(a)*

(a) Oct. 1784 c 76 § 7

XI. Every miniſter or clerk of a congregation (as the caſe may be) failing to tranſmit ſuch certificate to the clerk of the court in due time, ſhall forfeit and pay the ſum of ſixty dollars; and if the clerk of any county ſhall fail to record ſuch certificate, he ſhall forfeit and pay the like ſum of ſixty dollars, to be recovered with coſts of ſuit, by the informer, in any court of record.

XII. Every licenſe for marriage ſhall be iſſued by the clerk of the court, of that county or corporation wherein the feme uſually reſides, in manner following, that is to ſay; the clerk ſhall take bond, with good ſecurity, for the ſum of one hundred and fifty dollars, payable to the governor of the commonwealth for the time being, and his ſucceſſors, for the uſe of the commonwealth, with condition that there is no lawful cauſe to obſtruct the marriage for which the licenſe ſhall be deſired, and every clerk failing herein, ſhall forfeit and pay one hundred and fifty dollars; and if either of the parties intending to marry ſhall be under the age of twenty-one years, and not theretofore married, the conſent of the father or guardian of every ſuch infant, ſhall be perſonally given before the ſaid clerk, or certified under the hand and ſeal of ſuch father or guardian, atteſted by two witneſſes, one of which witneſſes ſhall perſonally appear before the ſaid clerk, and make oath or affirmation (as the caſe may require) that he ſaw the father or guardian, whoſe name is annexed to ſuch certificate, ſubſcribe or acknowledge the ſame; and thereupon the clerk ſhall iſſue a licenſe, and certify that bond is given, and every clerk is hereby authoriſed to adminiſter ſuch oath or affirmation, as aforeſaid; and if the parties or either of them be under the age aforeſaid, he ſhall alſo certify the conſent of the father or guardian, and the manner thereof, to any juſtice ſworn in the commiſſion of the peace, who is hereby authoriſed and required to ſign and direct the ſame: And every licenſe ſo obtained and ſigned, and no other whatſoever, is hereby declared to be a lawful licenſe; and if any county or corporation court clerk ſhall in any other manner, iſſue or certify any marriage licenſe, or if any perſon whatſoever ſhall preſume to ſign or direct ſuch licenſe, in other manner, or without ſuch certificate, as is by this act required, every perſon ſo offending, ſhall be impriſoned one whole year without bail or mainprize, and ſhall forfeit and pay fifteen hundred dollars, recoverable in any court of record within this commonwealth. *(a)*

XIII. If any perſon whatſoever ſince the eighth day of December, one thouſand ſeven hundred and eighty-eight, hath, or at any time hereafter, ſhall marry within the following degrees, that is to ſay: If the ſon hath married, or ſhall marry his mother or ſtep-mother, the brother his ſiſter, the father his daughther, or his ſon's daughter, or his daughter's daughte, or if the ſon hath married, or ſhall marry the daughter of his father, begotten and born of his ſtep-mother, or the ſon hath married or ſhall marry his aunt, being his father's or his mother's ſiſter, or hath married or ſhall marry his uncle's wife, or the father hath married or ſhall marry his ſon's wife, or the brother hath married, or ſhall marry his brother's wife, or any man hath married, or ſhall marry his wife's daughther, or his wife's ſon's daughter, or his wife's daughter's daughter, or his wife's ſiſter, every perſon or perſons ſo unlawfully married, ſhall be ſeparated by the definitive ſentence or judgment of the high court of chancery; and the attorney-general, upon any information made to him of any ſuch marriage, ſhall, and may exhibit a bill to the judge of the ſaid court, againſt any perſons ſo unlawfully married, who ſhall be compelled upon oath to anſwer the ſame; and upon ſuch bill and anſwer, and the depoſitions of witneſſes, where the ſame ſhall be neceſſary, the ſaid court ſhall and may proceed to give judgment, and to declare the nullity of ſuch marriage, and moreover may puniſh the parties by fine; and if the court ſee fit, may cauſe the parties to give bond with ſufficient ſecurity, that they will not cohabit hereafter, in ſuch penalty as the ſaid court ſhall judge reaſonable: *Provided always*, That no puniſhment by fine ſhall be impoſed on any perſon until the ſame ſhall have been aſſeſſed by a jury, duly

(a) 1748 c 25 § 2

impannelled at the bar of the ſaid court. *And provided alſo*, That nothing herein contained, ſhall be conſtrued to render illegitimate, the iſſue of any marriage ſo annulled. *(a)*

XIV. If any perſon or perſons within this commonwealth, being married, or who ſhall hereafter marry, do at any time after the commencement of this act, marry any perſon or perſons, the former huſband or wife being alive, every ſuch offence ſhall be felony, and the perſon or perſons ſo offending, ſhall ſuffer death as in caſes of felony; and the party and parties ſo offending, ſhall receive ſuch and like proceeding, trial, and execution within this commonwealth, as if the offence had been committed in the county where ſuch perſon ſhall be taken or apprehended. *Provided*, That nothing herein contained, ſhall extend to any perſon or perſons whoſe huſband or wife ſhall be continually remaining beyond the ſeas by the ſpace of ſeven years together, or whoſe huſband or wife ſhall abſent him or herſelf, the one from the other, by the ſpace of ſeven years together, in any part within the United States of America or elſewhere, the one of them not knowing the other to be living within that time. *Provided alſo*, That nothing herein contained, ſhall extend to any perſon or perſons, that are or ſhall be at the time of ſuch marriage divorced by lawful authority, or to any perſon or perſons where the former marriage hath been, or hereafter ſhall be by lawful authority, declared to be void and of no effect, nor to any perſon or perſons for or by reaſon of any marriage had or made, or hereafter to be had or made within age of conſent. *And provided alſo*, That no attainder for the offence made felony by this act, ſhall make or work any corruption of blood, or forfeiture of eſtate whatſoever. *(b)*

XV. If any feme ſole of the age of twelve, and under fourteen years, ſhall marry any perſon contrary to the will or conſent of her father or guardian, and without legal publication of the banns, then the next of kin to ſuch feme, to whom the inheritance ſhould deſcend or come, ſhall have right to enter upon and take poſſeſſion of all lands, tenements, hereditaments, and other real eſtate whatſoever, which ſuch feme, at the time of her marriage had in poſſeſſion, remainder, or reverſion, and ſhall have, hold, occupy, and enjoy the ſame to him or her, and the repreſentatives of his or her ſtock, with all the immunities, and privileges, thereto belonging, during the time of ſuch coverture; but after determination thereof, all ſuch eſtate, and the poſſeſſion, reverſions, and remainders, rights, immunities, and privileges, ſhall immediately reveſt, be, and remain in the ſaid feme, and her heirs, other than her huſband; and ſhe and they, and every of them, may re-enter and take poſſeſſion thereof, as if this act had never been made.

XVI. If any miniſter, clerk, or reader, ſhall wittingly publiſh the banns of marriage between any ſervants by act of aſſembly, indenture, or cuſtom, or between any free perſon and ſuch ſervant, or if any miniſter ſhall knowingly marry any ſuch without certificate from the maſter or owner of every ſuch ſervant, that it is with his or her conſent, every miniſter, clerk, or reader, ſo offending, ſhall forfeit and pay two hundred and fifty dollars for every ſuch offence, recoverable in any court of record of this commonwealth; and every ſuch ſervant, ſo married without conſent of his or her maſter or owner, ſhall ſerve him or her, and his or her aſſigns, one whole year after all other time of ſervice is expired, or pay him or her twenty dollars; and every free perſon ſo marrying ſuch ſervant, ſhall pay the maſter or owner, twenty dollars for his or her own uſe, recoverable in any county or corporation court, with coſts, or ſhall well and faithfully ſerve ſuch maſter or owner one whole year in actual ſervice.

XVII. And for preventing white men and women intermarrying with negroes or mulattoes, whatſoever white man or woman, being free, ſhall intermarry with a negro or mulatto man or woman, bond or free, ſhall by judgment of the county court, be committed to priſon, and there remain ſix months, without bail or mainprize; and ſhall forfeit and pay thirty dollars, to the uſe of the pariſh. *(c)*

XVIII. No miniſter or perſon whatſoever within this commonwealth, ſhall hereafter

(a) 1788 c 32 *(b)* 1788 c 34 *(c)* 1753 c 2 § 14

preſume to marry a white man with a negro or mulatto woman, or to marry a white woman with a negro or mulatto man, upon pain of forfeiting and paying, for every ſuch marriage, two hundred and fifty dollars, one half to the uſe of the commonwealth, and the other half to the uſe of the informer; to be recovered, with coſts, by action of debt, bill, plaint, or information, in any court of record within this commonwealth, wherein no eſſoin, protection, or wager of law, ſhall be allowed. *(a)*

XIX. And whereas women, as well maidens as widows and wives, having ſubſtances, ſome in goods moveable, and ſome in lands and tenements, and ſome being heirs apparent unto their anceſtors, for the lucre of ſuch ſubſtances, have been often times taken by miſdoers contrary to their will, and afterwards married to ſuch miſdoers, or to others by their conſent, or defiled: Whatſoever perſon or perſons ſhall take any woman ſo againſt her will, unlawfully, that is to ſay, maid, widow, or wife; ſuch taking, and the procuring or abetting to the ſame, and alſo receiving wittingly the ſame woman ſo taken, againſt her will, ſhall be felony, and that ſuch miſdoers, takers and procurers to the ſame, and receivers, knowing the ſaid offence in form aforeſaid, ſhall be reputed and judged as principal felons. *Provided always*, That this act ſhall not extend to any perſon taking any woman, only claiming her as his ward or bond-woman. *(b)*

XX. If any perſon, above the age of fourteen years, ſhall unlawfully take and convey away, or ſhall cauſe to be unlawfully taken or conveyed away, any maiden or woman-child unmarried, being within the age of ſixteen years, out of, or from the poſſeſſion, and againſt the will of the father or mother of ſuch maiden or woman-child, or out of, or from the poſſeſſion, and againſt the will of ſuch perſon or perſons as then ſhall happen to have, by any lawful ways or means, the order, keeping, education or governance of any ſuch maiden or woman-child, and being thereof duly convicted, ſhall ſuffer impriſonment without bail or mainprize, for any term not exceeding two years, as ſhall be adjudged againſt him. *(c)*

XXI. If any perſon or perſons ſhall ſo take away, or cauſe to be taken away, as is aforeſaid, and deflower any ſuch maid or woman-child, as is aforeſaid, or ſhall, againſt the will or knowledge of the father of any ſuch maid or woman-child, if the father be in life, or againſt the will or knowledge of the mother of any ſuch maid or woman-child, having the cuſtody and governance of ſuch child, if the father be dead, by ſecret letters, meſſages or otherwiſe, contract matrimony with any ſuch maiden or woman-child, every perſon ſo offending, and being thereof lawfully convicted, ſhall ſuffer impriſonment of his body, by the ſpace of five years, without bail or mainprize. *(d)*

XXII. All the fines which ſhall or may be impoſed by virtue of ſo much of this act, as relates to inceſtuous marriages, ſhall be to the uſe of the poor of the county wherein the offence or offences ſhall be committed; and one moiety of all the forfeitures ariſing under this act, and not otherwiſe appropriated, ſhall be to the uſe of the commonwealth, and the other moiety to the party or parties who ſhall ſue for the ſame.

XXIII. All and every act and acts, and clauſe or clauſes of acts, for ſo much thereof as relates to any thing within the purview of this act (except as herein after provided) are hereby repealed, and made void. *Provided always*, That nothing in this act contained, ſhall be conſtrued to repeal an act, intituled, "An act concerning inceſtuous marriages," or one other act, intituled, "An act for the puniſhment of the crime of bigamy," or one other act, intituled, "An act againſt forcible and ſtolen marriages," for ſo much of either of them as relates to any offence within the purview thereof, committed or done before the commencement of this act; but the ſaid recited acts, as to all ſuch offences ſhall be, and remain in full force in the ſame manner as if this act had never been made.

December the 3d, 1794.

§ 1. WHEREAS it is ſuggeſted to the general aſſembly of Virginia, that there is no ordained miniſter of the goſpel in regular communion with any ſociety of

(a) 1753 c 2 § 14 *(b)* 1789 c 8 § 1 *(c)* 1789 c 8 § 2 *(d)* 1789 c 8 § 3

Chriſtians, or other perſon reſiding in either of the counties of Lee or Randolph, authoriſed to celebrate the rites of matrimony between perſons deſirous of entering into that ſtate, whereby the inhabitants of the ſaid counties are expoſed to great inconvenience, and in many inſtances to conſiderable perſonal danger, as perſons deſirous of contracting matrimony, are, in order to have the ceremony legally performed, obliged to travel a conſiderable diſtance over mountains difficult to paſs, and often infeſted with hoſtile Indians:

II. From and after the paſſing of this act, it ſhall and may be lawful for the courts of the ſaid counties to appoint two perſons in each of the ſaid counties, who ſhall be reſidents within the county from the court whereof they ſhall have received their appointments, who by virtue of this act ſhall be authoriſed to celebrate the rights of marriage wherein they reſpectively reſide.

III. That every perſon ſo appointed, before entering into the execution of his office, ſhall take the oath of fidelity to the commonwealth, and enter into bond with ſufficient ſecurity, in the ſum of fifteen hundred dollars, payable to the governor for the time being, and his ſucceſſors, for the true and faithful performance of his truſt, whereupon, ſuch court is hereby required to grant to the perſon ſo appointed, a certificate in the following form, given under the hand and ſeal of the then ſitting judge, or ſenior magiſtrate, and atteſted by the clerk, to wit:

"This ſhall certify to all whom it may concern, that at a court held for the county of " on the day of in the year of our Lord , A. B. took "the oath of fidelity to this commonwealth, and having entered into bond and ſecurity, "agreeable to an act, intituled, "An act, to amend the act to regulate the ſolemnization "of marriages; prohibiting ſuch as are inceſtuous or otherwiſe unlawful; to prevent for-"cible and ſtolen marriages, and for puniſhment of the crime of bigamy," is hereby autho-"riſed to celebrate within the county of , the rites of marriage between perſons "deſirous of contracting the ſame:"

And every teſtimonial ſo obtained, ſhall be conſidered as a good and ſufficient authority to celebrate the rites of marriage within the county from the court wereof the teſtimonial is obtained, between perſons regularly applying therefor.

IV. *Provided*, That any perſon ſo appointed, ſhall, in no inſtance celebrate the rites of marriage, until the due publication of banns, or in conſequence of a licenſe duly obtained: And if he ſhould celebrate the rites of marriage, when forms and proviſions of law have been diſpenſed with, which are neceſſary to be obſerved when marriage is celebrated by an ordained miniſter, he ſhall be ſubject to the ſame penalties as are in ſuch inſtances inflicted on ordained miniſters, recoverable in the manner, and liable to the action of the party aggrieved, as is directed by the act, intituled, "An act to regulate the ſolemnization of marriages; prohibiting ſuch as are inceſtuous or otherwiſe unlawful; to prevent forcible and ſtolen marriages, and for puniſhment of the crime of bigamy." (*a*)

V. And if any perſon ſo appointed by the courts aforeſaid, or either of them, ſhall die or remove out of the county, it ſhall be lawful for the ſaid courts or either of them, to appoint ſome perſon in lieu of the perſon ſo dying or removing, who ſhall qualify to the performance of his truſt in the manner before directed, and ſhall be ſubject to the ſame penalties and actions, and by the ſame mode of recovery above pointed out.

VI. Any perſon appointed to celebrate the rites of marriage by virtue of this act, ſhall be entitled to the ſame fees and liable to the ſame actions, in caſe of refuſal to celebrate the ſame between perſons legally applying therefor, as are given to or againſt ordained miniſters in ſimilar circumſtances by virtue of the above recied act, and that he ſhall return to the clerk of the county a certificate of every marriage by him celebrated, a record whereof ſhall be kept by the clerk as is directed by law when the marriage ceremony has been performed by an ordained miniſter.

(*a*) This is the foregoing act.

December the 21ſt, 1796—but commenced May 1, 1797.

§ I. FROM and after the paſſing of this act, the ſeveral benefits and proviſions contained in an act of the general aſſembly, paſſed on the third day of December, in the year one thouſand ſeven hundred and ninety-four, intituled, "An act to amend the act, to regulate the ſolemnization of marriages; prohibiting ſuch as are inceſtuous or otherwiſe unlawful; to prevent forcible or ſtolen marriages; and for puniſhment of the crime of bigamy," ſhall in like manner, be extended to the counties of Ohio and Brooke.

II. The court of each of the ſaid counties, ſhall appoint two perſons, being actual reſidents of that county in which they ſhall be appointed, who ſhall have full power to celebrate the rites of marriage in that county wherein they reſpectively reſide, and have been ſo appointed: And in caſe of the death or removal out of the county of any of thoſe perſons, it ſhall be lawful for the court of that county, wherein ſuch perſon or perſons reſide, to appoint others in their ſtead, in like manner and with the like powers as thoſe originally appointed.

III. All and every perſon or perſons as aforeſaid appointed for the ſaid purpoſe, ſhall qualify themſelves in like manner, ſhall diſcharge the like duties, be ſubject to the like penalty or penalties, for breach thereof, and ſhall be entitled to the like fees, as are directed and preſcribed by the ſaid recited act, in like manner as if the ſame were herein particularly recited and expreſſed.

IV. So much of the act paſſed on the twenty-ſecond day of December, one thouſand ſeven hundred and ninety-two, intituled, "An act to regulate the ſolemnization of marriages; prohibiting ſuch as are inceſtuous or otherwiſe unlawful; to prevent forcible and ſtolen marriages; and for puniſhment of the crime of bigamy, as requires the clerks of county courts to certify to any juſtice of the peace, that bond is given for the obtaining of marriage licenſe, and that the father or gurrdian hath conſented to the iſſuing ſuch licenſe; and alſo ſo much of the ſaid recited act, as requires a juſtice of the peace to ſign ſuch licenſe, is hereby repealed. And it is hereby declared, that a licenſe iſſued by the clerk of any county court, agreeably to the other requiſites of the above recited act, ſhall be deemed ſufficient authoriy for any duly authoriſed perſon to ſolemnize ſuch intended marriage. And in caſe any clerk ſhall iſſue a licenſe in any ſother manner, he ſhall be ſubject to the ſame penalty, to be recoverable in like manner, as directed under the above recited act.

MASTERS. *See Guardians, Orphans, Committees, Infants, Maſters, and Apprentices.*

MEETING OF GENERAL ASSEMBLY. *See General Aſſembly.*

MIGRATION OF FREE NEGROES. *See Slaves, Free Negroes, and Mulattoes.*

MILITIA.

December the 24th 1795—but commenced Feb. 1, 1796.

§ I. WHEREAS the congreſs of the United States, did, at their ſeſſion of one thouſand ſeven hundred and ninety-two, paſs an act, intituled, "An act more effectually to provide for the national defence, by eſtabliſhing an uniform militia throughout the United States," and it is expedient for this legiſlature to carry the ſame into effect, ſo far as reſpects this ſtate:

II. The counties of Accomack, Northampton, Princeſs Anne, Norfolk, and the Borough of Norfolk, ſhall compoſe one brigade; the counties of Nanſemond, Iſle of Wight, Southampton, Surry, Suſſex and Prince George, one brigade; the counties of Elizabeth City, Warwick, York, James City, Charles City, New Kent, Hanover, Henrico, and the Cities of Richmond and Williamſburg, one brigade; the counties of Glouceſter, Mathews, Middleſex, Eſſex, King William, King and Queen, Lancaſter, Northumberland, Richmond and Weſtmoreland, one brigade; and the ſaid brigades ſhall compoſe one diviſion: That the counties of Loudoun and Fairfax, ſhall compoſe one brigade; the counties of Fauquier, Prince William, Stafford and King George, one brigade; the counties of Culpeper, Madiſon, Orange, Spotſylvania and Caroline, one brigade; the counties of Louiſa, Goochland, Fluvanna, Albemarle and Amherſt, one brigade; and the ſaid brigades ſhall compoſe one other diviſion: The counties of Frederick and Berkeley, ſhall compoſe one brigade; the counties of Rockingham, Auguſta and Shenandoah, one brigade; the counties of Wythe, Waſhington, Ruſſel, Lee, Grayſon and Montgomery, one brigade; the counties of Rockbridge, Botetourt, Greenbrier, Bath and Kanawha, one brigade; the counties of Hampſhire, Hardy, Pendleton, Randolph, Harriſon, Monongalia and Ohio, one brigade; and the ſaid brigades ſhall compoſe one other diviſion: The counties of Henry, Patrick, Franklin, Campbell and Bedford, ſhall compoſe one brigade; the counties of Pittſylvania, Halifax, Charlotte and Prince Edward, one brigade; the counties of Dinwiddie, Greenſville, Brunſwick, Lunenburg and Mecklenburg, one brigade; the counties of Cheſterfield, Amelia, Nottoway, Powhatan, Cumberland and Buckingham, one brigade; and the ſaid brigades ſhall compoſe one other diviſion.

III. The counties of Loudoun, Berkeley, Culpeper, Shenandoah, Fauquier, Accomack, Amherſt, Norfolk, Halifax, Pittſylvania, Dinwiddie, Mecklenburg, Bedford, Albemarle, Brunſwick, Montgomery, Wythe, Prince William, Hanover and Frederick, ſhall compoſe two regiments, and four battalions each; that the counties of Middleſex and Eſſex, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of Weſtmoreland and Richmond, ſhall compoſe two battalions, which two battalions ſhall compoſe one regiment; that the counties of Harriſon and Randolph, ſhall each compoſe one battalion, which two battalions ſhall conſtitute one regiment; that the counties of Charles City and New-Kent, ſhall compoſe one battalion each, which two battalions ſhall conſtitute one regiment; that the counties of Elizabeth City and Warwick, ſhall form one battalion; and the counties of York, James City and the City of Williamſburg, ſhall form one other battalion, which two battalions ſhall conſtitute one regiment; and each of the other counties in this commonwealth, and alſo the City of Richmond and Borough of Norfolk, ſhall compoſe each two battalions, which two battalions ſhall conſtitute one regiment; and every battalion as aforeſaid, ſhall, if convenient, be formed into five companies, each company to conſiſt of not leſs than fifty nor more than one hundred rank and file.

IV. There ſhall be an adjutant general for the militia of the ſtate, a major general to each diviſion, and a brigadier general to each brigade, to be appointed by joint ballot of both houſes of the general aſſembly, who ſhall reſide within the limits of their reſpective commands. Each major general ſhall appoint his own aids-de-camp, and each brigadier his own brigade inſpector. And the governor, with advice of council, ſhall commiſſion the ſeveral major generals, brigadier generals, and the adjutant general who may be hereafter appointed purſuant to this act. And all vacancies hereafter accruing in any of the ſaid offices, ſhall be ſupplied by appointments in like manner to be made.

V. The governor, with the advice of council, ſhall be, and he is hereby authoriſed and required to appoint and commiſſion to each diviſion, one lieutenant colonel commandant and two majors to command the ſeveral companies of artillery and cavalry (as the caſe may be) annexed to each diviſion, and to arrange ſuch companies of artillery into regi-

ments and battalions in ſuch manner as to them may ſeem moſt convenient, to be denominated the regiment and battalion of the regiment of artillery or cavalry (as the caſe may be) and all returns of the ſtrength and ſtate of the ſeveral companies of artillery and cavalry, ſhall be made by the commanding officers of the ſeveral regiments, battalions, and companies, under the like rules, regulations, and penalties, as are by law directed with reſpect to the reſt of the militia.

VI. Where it has not been already done, the courts of the ſeveral counties and corporations, ſhall from the field and other officers who hold commiſſions in the militia, proceed to recommend to the executive the officers neceſſary to complete the regiments, battalions, and companies, purſuant to this act, by grades and ſeniority; and the perſons ſo recommended, ſhall be commiſſioned by the governor, agreeably to the conſtitution of this ſtate: And all vacancies thereafter happening in the ſaid offices of the militia ſhall be ſupplied by appointment of the governor, with advice of the council, or recommendation from the court of the reſpective county or corporation, where ſuch vacancy happens; any thing in any act to the contrary notwithſtanding.

VII. All perſons who hold commiſſions under the late militia laws of this ſtate, and who have not been recommended by their reſpective courts, ſhall be conſidered as ſupernumerary officers, but may be recommended to ſupply vacancies hereafter happening in the officers of the militia, and in caſe any ſupernumerary officer ſo recommended, ſhall on ſuch recommendation refuſe to ſerve, ſuch officer ſhall no longer avail himſelf of his former commiſſion, ſo as to claim an exemption from militia duty.

VIII. Each and every officer appointed, or who may hereafter be appointed and commiſſioned in manner aforeſaid, ſhall previous to his entering on the execution of his office, take the following oath (to be adminiſtered by a juſtice of the peace, or the court of the county or corporation in which ſuch officer reſides) to wit: "I do ſwear "that I will be faithful and true to the commonwealth of Virginia, of which I profeſs "myſelf to be a citizen, and that I will faithfully and juſtly execute the office of "in the militia thereof, according to the beſt of my ſkill and judgment. So help me "God." If the ſaid oath be adminiſtered by a juſtice of the peace, it ſhall be his duty to certify the ſame to the court of his reſpective county or corporation, there to be entered of record by the clerk.

IX. It ſhall be the duty of the executive to number by ballot the ſeveral diviſions, brigades, and regiments, and cauſe the ſame to be regiſtered in the office of the adjutant-general; and every commiſſion hereafter iſſued by the governor, as aforeſaid, ſhall expreſs the number of the diviſion, brigade, and regiment, reſpectively to which the perſon obtaining the ſame ſhall belong.

X. Where commanding officers of regiments have failed to lay off their regimental, battalion and company diſtricts, or where any alteration in diſtricts actually laid off, may hereafter be found neceſſary, commanding officers of regiments ſhall aſſemble the cammanding officers of battalions and companies, at ſome fit and convenient place, and may proceed to lay off or alter any ſuch regimental, battalion, or company diſtrict, which diſtricts ſhall, in all caſes, be deſignated by certain lines and bounds, and recorded by the clerks of the courts of enquiry, reſpectively.

XI. Where it has not been already done, it ſhall be the duty of the commanding officers of companies, to proceed forthwith to divide their companies into diviſions by ballot from one to ten, for the purpoſe of a regular rotine of duty when called into actual ſervice; and to return a roſter of each diviſion, and its number, in rotation, within fifteen days thereafter, to the commanding officer of his battalion, who ſhall forthwith tranſmit the ſame to the commanding officer of the regiment, who ſhall direct the ſame to be recorded by the clerk of the court of enquiry. The ſame regulations ſhall be obſerved by every commanding officer of a company, battalion, and regiment, on the conſequent enrollment of any per-

ſon therein, unleſs ſuch perſon ſhall produce a certificate of his having been before drawn for the above purpoſe, in which caſe he ſhall be inrolled accordingly. And every militia man removing out of the bounds of one company into another, ſhall apply to the commanding officer of the company to which he did belong, who ſhall give him a diſcharge certifying the claſs wherein he was arranged, and whether he had performed his tour of duty or not, and alſo the time and date of ſaid ſervice; which certificate the ſaid militia man ſhall produce to the captain or commanding officer of the company into whoſe bounds he ſhall ſo have removed, within ten days after his ſettlement; and ſuch officer is hereby required to inroll him in the numerical claſs ſpecified therein; and every militia man ſo removing and failing to produce ſuch certificate, ſhall be arranged and inrolled in the claſs deſtined to perform the next tour of duty: And if any captain or commanding officer of a company ſhall refuſe to grant ſuch a certificate upon application to him made for that purpoſe, he ſhall, for ſuch refuſal, incur a penalty of thirty dollars, to be aſſeſſed and applied as other fines impoſed by this act.

XII. The governor with the advice of council, ſhall and may cauſe the ſeveral companies of artillery, cavalry, grenadiers, light infantry, and riflemen, to be allotted by entire companies into diviſions from one to ten, for a regular rotine of duty; and the ſaid companies ſhall in future be called into actual ſervice by entire companies in ſuch manner and proportion as the reſt of the militia, or as the nature of the ſervice may require; and all ſuch allotments ſhall be returned to the office of the adjutant-general, to be recorded by him.

XIII. The members of the council of ſtate, judges of the ſuperior courts, clerks of both houſes of the general aſſembly, clerks of the ſuperior and inferior courts, the attorney general, the treaſurer and his clerks, the auditor of public accounts, the rigiſter of the land-office, and their clerks, all inſpectors of tobacco, all profeſſors and tutors, and ſtudents of the college of William & Mary, and all other public ſeminaries of learning, all miniſters of the goſpel licenſed to preach according to the rules of their ſect, who ſhall have previouſly taken before the court of their county the oath of fidelity to the commonwealth, keepers of the public, diſtrict, and county gaols, and of the public hoſpital, millers actually and neceſſarily employed in the management of water griſt mills legally eſtabliſhed, all ferry-men actually and neceſſarily employed as ſuch, ſhall be, and they are hereby exempted from the performance of all and any part of the duties required by this act: And all quakers and menoniſts religiouſly ſcrupulous of bearing arms, and having a certificate from their reſpective ſocieties of their being members of ſuch ſociety, ſhall be, and they are hereby exempted from all ſervice in the militia: *Provided*, They ſhall furniſh a ſubſtitute for actual ſervice, to be approved of by the commanding officer of the regiment within whoſe bounds he ſhall reſide, and all artificers, employed or who may hereafter be employed, at the arſenal at the Point of Fork, during their continuance in that employment. *Provided*, That regimental, battalion, or company muſters ſhall not be couſidered as actual ſervice within the meaning of this law.

XIV. The commanding officers of companies ſhall inroll every able bodied white male citizen, between the ages of eighteen and forty-five (except ſuch as are exempted by this act) reſident within his diſtrict; and that in all caſes of doubt reſpecting the age of any perſon inrolled or intended to be inrolled in any company of militia, the party queſtioned ſhall prove his age to the ſatisfaction of the officers, or a majority of the officers of the company within whoſe bounds he may reſide.

XV. The governor, with the advice of council, or on the recommendation of the county or corporation courts, ſhall iſſue commiſſions for at leaſt one captain, one lieutenant, and one enſign to each battalion, who ſhall proceed by voluntary enliſtment within their battalion, to inroll a ſufficient number of men to complete their company or companies, and be

diſtinguiſhed by the denomination of grenadiers, light infantry, or riflemen, at the diſcretion of the commanding officer of the regiment; and every perſon belonging to ſaid light companies, ſhall wear while on duty, ſuch caps and uniforms as the executive ſhall direct, to be purchaſed by the commanding officers of the regiment out of the money ariſing on delinquents, and the ſaid companies ſhall perform the ſame rotine of duty, and be ſubject to the ſame rules, regulations and orders as the reſt of the militia. And the governor with the advice of council, is hereby empowered to appoint and commiſſion at their own diſcretion, the neceſſary officers fo rone or more companies of artillery in each brigade, who are hereby authoriſed and empowered to enliſt by voluntary enliſtments, and in ſuch proportion to each officer reſpectively ſo appointed, as the executive ſhall direct, a company or companies to be denominated the company of artillery; in like manner commiſſions may iſſue for the neceſſary officers for one or more troops of cavalry in each brigade, who ſhall alſo, by voluntary enliſtments and in the ſame proportion to their reſpective ranks, enliſt a company or companies, to be denominated the company of cavalry. And all and every officer or officers ſo appointed, who ſhall fail to enliſt or complete his quota, within three months after receiving his commiſſion, ſhall at the diſcretion of the executive (unleſs good cauſe is ſhewn to the contrary) be diſcontinued.

XVI. There ſhall be a muſter of each troop of cavalry and company of artillery once in every two months, except the months of January, February, March and December, in every year: And it ſhall be the duty of the captain or commanding officer of every ſuch troop or company, and they are hereby required at each and every muſter, to call his roll, examine every perſon belonging thereto, and note down all delinquencies occurring therein, and make return thereof upon oath to the commanding officer of the regiment within whoſe bounds ſuch delinquent may reſide, to be reported and proceeded againſt in like manner as other delinquents. And it ſhall be lawful for any commiſſioned officer of cavalry or artillery to ſit in any court of enquiry and aſſeſſment of fines, to which any perſon in their reſpective companies is reported a delinquent. *Provided*, That it ſhall not be lawful for more than one ſuch officer of cavalry and artillery to ſit in ſuch court at the ſame time.

XVII. There ſhall be a muſter of each company of militia once in every two months, except the months of December, January, February, and March, in every year, to be appointed by the commanding officer thereof, at ſuch place as he ſhall think moſt convenient within his diſtrict; and there ſhall be a muſter of each battalion in the month of May, in every year, to be appointed by the commanding officer of the regiment to which ſuch battalions reſpectively belong, at ſuch place as he deems moſt convenient within the battalion diſtrict; and there ſhall be a muſter of each regiment in the month of October, in every year, to be appointed by the commanding officer of the brigade to which ſuch regiments reſpectively belong, at ſuch place as he ſhall think moſt convenient within the regimental diſtrict; which ſaid company, battalion, and regimental muſters, ſhall continue one day and no longer; the time and place of ſuch regimental muſters ſhall be notified to the commanding officers of regiments forty days previous thereto; the commanding officers of regiments ſhall give notice to the commanding officers of battalions at leaſt thirty days; the commanding officers of battalions to the commanding officers of companies at leaſt twenty days; and the commanding officers of companies to their ſerjeants at leaſt ten days; and the ſerjeants to each perſon in his company at leaſt three days before ſuch muſter. The notices to be given by the commanding officers of brigades, regiments and battalions, ſhall be in writing, delivered to each perſon to be notified, or left at his uſual place of abode: And every ſerjeant failing to give notice agreeably to the commanding officer of his company to each perſon therein, ſhall forfeit and pay for each and every offence three dollars, to be aſſeſſed and recovered as other fines impoſed by this act; nevertheleſs, all notices publicly given by the commanding officers of companies at their reſpective muſters, of any ſubſequent muſter, ſhall be held and deemed as legal notice within the meaning of this act, as to all

perſons preſent at ſuch muſters; any thing herein to the contrary notwithſtanding. Every officer and ſoldier ſhall appear at his reſpective muſter field on the day appointed by eleven o'clock in the forenoon. At every muſter the commanding officer of the company ſhall call his roll, examine every perſon belonging thereto, and note down all delinquencies accruing therein, and make return thereof at or before the next regimental or battalion court of enquiry, to the commanding officer of his battalion, including thoſe which occurred on the day of his laſt regimental or battalion muſter; and the commanding officers of regiments and battalions ſhall, at their reſpective regimental and battalion muſter (as the caſe may be) take notice of all delinquent officers; and ſhall lay the ſame, together with the returns of delinquencies from the commanding officers of companies, before the court of enquiry appointed under this act, to take cognizance of, and determine on them; and to each of the ſaid returns ſhall be annexed the following certificate, to wit: "I do certify that the "returns hereto annexed, contain all the delinquencies which have occurred ſince my laſt "return, having duly examined the ſame."

XVIII. Every commanding officer of a company, ſhall within ten days after every regimental or battalion muſter, make up and report to the commanding officer of his battalion a return of his company in ſuch manner and form as ſhall be furniſhed by the proper officer from time to time. It ſhall be the duty of the commanding officers of battalions to make like returns to the commanding officers of regiments within ten days thereafter, who ſhall cauſe the adjutant of his regiment to make regimental returns to their reſpective brigade inſpectors, within twenty days thereafter.

XIX. And whereas it may be improper that the militia in the frontier counties ſhould be drawn from their dwellings in times of danger, merely for the purpoſe of training: The commanding officers of brigades on the frontiers of this ſtate, may diſpenſe with the execution of this law, ſo far as relates to training the militia in regiments and battalions within their commands, as they ſhall judge expedient; and they ſhall inſtruct their brigade inſpectors accordingly.

XX. Each captain or commanding officer of a company ſhall appoint to his company four ſerjeants, four corporals, a drummer and fifer, to be approved of by the commanding officer of his battalion.

XXI. In all caſes of death, abſence, or reſignation of any major general, brigadier general, lieutenant colonel commandant, major, captain, or lieutenant, the next officer in rank, in his reſpective commands, ſhall be conſidered as the commanding officer during ſuch vacancy, and liable to perform the duties required by this act, and for neglect therein, ſhall incur the penalties annexed thereto.

XXII. It ſhall be the duty of every commanding officer of a regiment, battalion, or company, at their reſpective muſters, to cauſe the militia to be trained and exerciſed agreeably to the mode of diſcipline preſcribed by congreſs, under pain of being arreſted and tried for breach of their duty; and for this purpoſe the ſaid officers are hereby authoriſed to order the moſt expert and fit officer in their reſpective commands, to perform that duty.

XXIII. And in order that a knowledge of the rules of diſcipline may be more readily obtained, the commiſſioned officers of the ſeveral regiments ſhall meet once in every year within their reſpective regimental diſtricts, for the purpoſe of being trained and inſtructed by the brigade inſpectors; the days and places of meeting to be fixed on by the commanding officer of the brigade to which the regiments belong. The officers thus aſſembled, ſhall each continue four days and no longer every time they are ſo called out. The eldeſt officer preſent ſhall call the roll on each day, and report the delinquencies to the ſucceeding regimental court of enquiry; and every officer failing to attend ſuch meeting, on being ſummoned, not having a reaſonable excuſe, to be adjudged of by the court of enquiry, ſhall forfeit and pay for each day which he ſhall fail ſo to attend, five dollars, to be appropriated as the other fines are by this act: *Provided always*, That where there is more

than one regiment in a county, all the commiſſioned officers of the reſpective regiments in ſuch county ſhall meet together at ſuch place as may be appointed by the commanding officer of the brigade, for the purpoſe of being trained and inſtructed purſuant to this act.

XXIV. And to the end that a general knowledge of the rules of diſcipline eſtabliſhed by congreſs in their reſolution of the twenty-ninth day of March, one thouſand ſeven hundred and ſeventy-nine, may be diffuſed, the executive is hereby authoriſed and required to procure and have a ſufficient number of copies of the ſaid rules printed and bound in boards to afford to every commiſſioned officer of the militia one copy, and cauſe them to be delivered to the commanding officers of brigades, to be by them duly diſtributed without delay; and upon the death, reſignation or removal of any officer, the book delivered him ſhall revert to the public, and be returned to the commanding officer of the regiment, to be by him delivered to the officer filling the vacancy occaſioned by ſuch death, reſignation or removal. And for defraying the neceſſary expence thereof, the executive ſhall draw on the contingent fund.

XXV. Any officer who ſhall be guilty of diſobedience, or other miſbehaviour when on duty, or ſhall at any time be guilty of any conduct unbecoming the character of an officer, ſhall be put under arreſt by his commanding officer, and tried as hereafter ſhall be directed.

XXVI. If any non-commiſſioned officer or ſoldier, ſhall behave himſelf diſobediently or mutinouſly when on duty, or before any court or board directed by this act to be held, the commanding officer, court or board, may confine him for the day; and he may moreover be fined at the diſcretion of the court of enquiry, in any ſum not exceeding ten dollars; to be appropriated as other fines impoſed by this act.

XXVII. If any by-ſtander ſhall interrupt, moleſt or inſult, any officer or ſoldier while on duty, at any muſter, or ſhall be guilty of like conduct before any court or board, the commanding officer or ſuch court or board, may cauſe him to be confined for the day.

XXVIII. And for enforcing obedience to this act, the following forfeitures and penalties ſhall be incurred for delinquencies, viz. By a lieutenant colonel commandant or commanding officer of a regiment, for failing to take an oath, to ſummon any court or board, to attend any court or board, to tranſmit any recommendation of an officer or officers to the governor, to deliver any commiſſion or commiſſions, to appoint a battalion muſter, or failing to give notice of a regimental muſter, to report delinquencies, to make returns of his regiment as by this act directed, ſhall for each and every ſuch offence or neglect, forfeit and pay a ſum not exceeding ſeventy dollars; for failing to ſend into actual ſervice any militia legally called for, or to turn out his militia upon an invaſion or inſurrection of his country, three hundred dollars; by a major, for failing to take an oath, to attend any court or board, to give notice of any regimental or battalion muſter, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he ſhall forfeit and pay for each and every offence and neglect, a ſum not exceeding thirty dollars; for failing to call forth from his battalion with due diſpatch, any detachment of men or officers as ſhall be required from time to time by the commanding officer of his regiment, on any call from the governor, invaſion of, or inſurrection in his country, or requiſition from any neighbouring country, one hundred and fifty dollars; by a captain, for failing to take an oath, to attend any court, to inroll his company, to appoint private muſters, to give notice of a regimental or battalion muſter, to attend any muſter armed, to call his roll, examine his company, and report delinquencies, or to allot his company into diviſions from one to ten, for a regular rotine of duty, or to make any return as directed by this act, he ſhall forfeit and pay for each and every offence and neglect, a ſum not exceeding twenty dollars; failing to call forth ſuch officers and men as ſhall from time to time be legally called from his company, upon any call from the governor, invaſion of, or inſurrection in the county, or requiſition from an adjacent county, or failing on ſuch occaſion to repair to the place of rendezvous, he ſhall forfeit and pay ſeventy-five dollars; by a ſubaltern officer for

failing to take an oath, to attend any court or muſter armed as directed, for each and every ſuch offence he ſhall forfeit and pay a ſum not exceeding ten dollars; failing to repair to the place of rendezvous, armed as required, when ordered, upon any call from the governor, invaſion of, or inſurrection in the county, or requiſition from a neighbouring county, he ſhall forfeit and pay fifty dollars, to be adjudged of and determined by the reſpective regimental courts of enquiry; by a non-commiſſioned officer, or ſoldier, for failing to repair to his rendezvous, when ordered, upon any call from the governor, invaſion of, or inſurrection in the county, or requiſition from a neighbouring county, he ſhall forfeit and pay a ſum not exceeding eighty dollars, to be adjudged of and determined by their reſpective battalion courts of enquiry, and moreover ſhall be inrolled in the claſs deſtined to perform the next tour of duty. All officers failing as before mentioned ſhall be ſubject to be arreſted, tried, cenſured or caſhiered at the diſcretion of their reſpective battalion courts of enquiry. Any non-commiſſioned officer or ſoldier, failing to attend at his regimental, battalion or company muſter, armed and equipped as the law directs, ſhall forfeit and pay ſeventy-five cents. If any non-commiſſioned officer or private ſhall be returned as a delinquent in not appearing armed and accoutred as the law directs, the court martial before whom the ſame ſhall be tried, may if it appear reaſonable remit the fine incurred by him: *Provided*, Every ſuch delinquent who hath a firelock of any kind ſhall make it appear that he brought the ſame to the muſter. Any private on the ground at a regimental, battalion or company muſter, who ſhall refuſe to go into the ranks when required, ſhall forfeit and pay four dollars.

XXIX. And whereas it is neceſſary that certain tribunals be inſtituted for the trial of offences as they are to be viewed in a military light, and for enquiring into certain delinquencies and aſſeſſing fines; the governor or commanding officer of the militia of this ſtate, ſhall have power, for miſconduct within his own knowledge, or upon complaint lodged in writing by any commiſſioned officer, to arreſt and order a court-martial of the ſtate for the trial of the adjutant-general, a major-general, or brigadier-general, to be compoſed of one major-general, not more than four brigadier-generals, and as many lieutenant-colonel-commandants and majors, as ſhall make up a number not leſs than thirteen; and ſuch courts-martial ſhall proceed to hear and determine on all offences under this act, and may cenſure or caſhier any officer ſo tried, which ſentence ſhall be final, ſaving an appeal to the executive. And any major-general or brigadier-general, for miſconduct within their own knowledge, or upon complaint lodged in writing by any commiſſioned officer, ſhall have power to arreſt any lieutenant colonel-commandant, aid-de-camp, brigade inſpector and major, or any other inferior officer; and the commanding officer of the diviſion, ſhall order a court-martial, for the trial of ſuch lieutenant-colonel-commandant, aid de-camp, brigade inſpector or major, to be compoſed of one brigadier-general, and as many lieutenant-colonel-commandants, majors and captains, as ſhall make up a number not leſs than thirteen; and ſuch courts-martial ſhall proceed to hear and determine on all offenceſs under this act, and may cenſure or caſhier ſuch officer which ſentence ſhall be final; ſaving to the party an appeal to the executive. And any brigadier-general, lieutenant-colonel-commandant, or major, for miſconduct in any captain or ſubaltern within his own knowledge, or upon complaint lodged in writing by any commiſſioned officer, may arreſt ſuch captain or ſubaltern; and the brigadier or commanding officer of the brigade ſhall order a brigade court-martial for the trial of ſuch captain or ſubaltern, to be compoſed of one or more field officers, and a ſufficient number of captains and ſubalterns, to make up a number not leſs than thirteen; and ſuch courts-martial ſhall proceed to hear and determine on all offences under this act, and may cenſure or caſhier any officer ſo tried, which ſentence ſhall be final; ſaving to the party an appeal to the executive. And in all caſes of appeal, the party making the appeal, may demand of the clerk or judge advocate of the court-martial, a full copy of the proceedings had thereon, to be laid before the executive, who ſhall

determine agreeably to the right of the caſe. And for obtaining the neceſſary evidences for the trials aforeſaid, the commanding officer of the ſtate, diviſion or brigade, (as the caſe may be) ſhall iſſue his ſummonſes; and every perſon ſo ſummoned, failing to attend, ſhall be ſubject to and may be tried by a court-martial; and if an officer, may at the diſcretion of a court-martial, be caſhiered or fined, not exceeding ſix months pay as by law allowed; and if a non-commiſſioned officer or ſoldier, to be reported to the court of enquiry of the regiment to which he ſhall belong, and be then ſubject to ſuch fines and penalties as they may think proper to inflict, not exceeding ſix months pay.

XXX. There ſhall be battalion courts of enquiry, to be appointed by the commanding officer of the battalion, for the aſſeſſment of fines incurred under this act in ſuch battalion, and ſuch courts of enquiry ſhall be held within fifteen days after each battalion and regimental muſter, at or as near as ſhall be convenient to the place where the laſt battation muſter was held, and to conſiſt of the commanding officer of the battalion, and the commanding officers of companies, or a majority of them, who ſhall take the following oath, to be adminiſtered by the preſiding officer, and afterwards by any other officer of the ſaid court to him, to wit: "I will truly and faithfully enquire into all delinquen- "cies which appear on the returns to be laid before me, and will aſſeſs the fines thereon as "ſhall ſeem juſt, without favor, partiality, or affection. So help me God." The commanding officer of the battalion ſhall then lay before the ſaid court all delinquencies as directed by this act; whereupon they ſhall proceed to hear and determine: And there ſhall moreover be a regimental court of enquiry in each year for the aſſeſſment of fines incurred by the officers of the regiment, and ſuch court of enquiry ſhall be held by appointment of the commanding officer, in not leſs than ten nor more than twenty days after the laſt battalion court of enquiry; to conſiſt of the commanding officer of the regiment, battalions, and companies, or a majority of them, who ſhall take an oath in manner and form as preſcribed above. The commanding officer of the regiment ſhall then lay before the ſaid court all delinquencies as directed by this act, whereupon they ſhall proceed to hear and determine. It ſhall be the duty of the preſiding officer of each and every ſuch court of enquiry to return to the next regimental court of enquiry, all delinquent officers, failing to attend the preceding court, to be proceeded againſt according to law. The regimental court of enquiry, may, for good cauſe ſhewn, remit any fine impoſed by the two preceding battalion courts.—The ſaid court may alſo exempt any militia man from duty on account of bodily infirmity, and may again direct ſuch perſon to be inrolled when able to do duty.

XXXI. The reſpective regimental courts of enquiry, where it has not already been done, ſhall, at their firſt court, to be held under this act, appoint, by ballot, a clerk and provoſt marſhal, who ſhall attend the courts herein before directed to be held. Such clerk ſhall keep a fair record of the proceedings of ſuch courts, as alſo of the roſter, returned by the ſeveral captains or commanding officers of companies, for regular rotine of duty, and ſhall make out for the ſheriff, a fair liſt of all fines aſſeſſed by the regimental and battalion courts, and one other liſt, which ſhall be tranſmitted to the executive, on or before the firſt day of May next, after ſuch regimental court was holden in each year. And all other duties required by this act, and, together with the provoſt marſhal, ſhall receive ſuch allowance, to be paid out of the fines, as the court ſhall think reaſonable.

XXXII. All fines to be aſſeſſed by virtue of this act, ſhall be collected by the ſheriff of the county, upon a liſt thereof, certified by the clerk of the court of enquiry, and delivered to the ſheriff, on or before the firſt day of January, in every year; who ſhall give his receipt therefor; and having deducted a commiſſion of ſix per centum, ſhall account for, and pay the reſidue into the public treaſury, on or before the firſt day of October next thereafter, under the ſame penalties, and ſubject to the ſame mode of recovery, as are preſcribed by law with reſpect to the collection of the taxes. And ſhould any perſon ſo charged with fines, fail to make payment on or before the firſt day of May, in every year, the ſheriff is hereby authoriſed to make diſtreſs and ſale therefor.

XXXIII. Whatever fines ſhall be thus paid into the public treaſury, by virtue of this act, ſhall be held as a fund for defraying the ſalaries of the officers herein after mentioned, and of equipping and furniſhing the militia with every neceſſary apparatus for the defence and ſecurity of the ſtate. And the treaſurer ſhall keep a ſeparate book of the ſame and the expenditures thereof.

XXXIV. The lieutenant-colonel-commandant ſhall cauſe to be purchaſed out of the money ariſing from the fines, a ſet of colours for each regiment, and alſo a ſet of colours for each battalion, he ſhall alſo procure in like manner for each company a drum and fife, or bugle horn, and on the colours and drums ſhall be marked the number of the regiment, and the battalion, together with the name of the county to which they belong. And whereas it is repreſented that ſundry captains of companies have already advanced money for the purchaſe of drums and fifes for the uſe of their reſpective companies: In ſuch caſes, the ſheriff, upon a certificate from the lieutenant colonel commandant of the regiment to which ſuch captain ſhall belong, ſhall refund the money to the ſaid captain, which ſhall have been thus advanced, for which the ſheriff ſhall have credit in the ſettlement of his account with the auditor. And whereas ſundry other charges and expences are authoriſed herein: The ſheriff having a draught or draughts from the lieutenant colonel commandant, ſhall be authoriſed to diſcharge the ſame, for which, as well as all inſolvencies duly certified by the clerk of the court of enquiry, he ſhall be allowed on a ſettlement between the auditor and ſheriff.

XXXV. The governor, with the advice of council, be authoriſed and empowered, on an invaſion or inſurrection, or probable proſpect thereof, to call forth ſuch a number of the militia, and from ſuch counties as they may deem proper; and for the accommodation, equipment, and ſupport of the militia, ſo at any time to be called forth, the governor with the advice aforeſaid, may appoint ſuch quarter-maſters, commiſſaries, and other ſtaff as to him ſhall ſeem proper, and to fix their pay and allowances; and ſhall alſo take ſuch meaſures for procuring, tranſporting and iſſuing all orders which may be neceſſary, as to him ſhall ſeem beſt. Orders for the militia to be called forth as aforeſaid, ſhall be ſent to the commanding officers of brigades with a notification of the place or places of rendezvous, who ſhall immediately take meaſures for detaching the ſame, with the neceſſary number and ranks of officers by detail and rotation of duty.

XXXVI. The lieutenant colonel commandant or commanding officers of regiments from which detachments are drawn, ſhall cauſe to be procured by impreſſment or otherwiſe, for each company, a waggon, team and driver, ſix axes and ſix camp kettles, or pots of convenient ſize, all which ſhall be delivered to the commanding officer of the company, who ſhall be accountable for returning the ſame when his tour is over; and the articles aforeſaid ſhall be returned to the owners, who ſhall be allowed for the uſe of the ſame, whatever ſhall be adjudged by the court hereinafter appointed for enquiring into delinquencies: And to the end that if any article impreſſed, be loſt, the owner may be paid for the ſame, the lieutenant colonel commandant or commanding officer, ſhall cauſe all property by him impreſſed by virtue of this, to be valued by two or more freeholders on oath, before the ſame ſhall be ſent away; and upon proof being made of any article being loſt, the valuation thereof ſhall be allowed without any allowance for the uſe; and the ſaid allowance ſhall be certified to the auditor of public accounts. The ſaid court ſhall make enquiry into the cauſe of ſuch loſs, and if it ſhall appear that the ſaid loſs was occaſioned by the miſconduct or inattention of any officer, the lieutenant colonel commandant, or commanding officer, is hereby authoriſed and required to proſecute a ſuit againſt ſuch officer for the recovery of damages, for the uſe of the commonwealth.

XXXVII. If it ſhall appear to the executive upon calling forth the militia as aforeſaid, that the neceſſary number and ranks of officers will not attend the detachments for officering them at the places of rendezvous, the governor, with the advice of council, is hereby

authoriſed to appoint ſuch officers as may be neceſſary from the counties called upon, as they may think proper, to join the detachments ſo raiſed.

XXXVIII. If a ſudden invaſion ſhall be made into any county in this commonwealth, or in caſe of an inſurrection in any county, the commanding officer of the militia of ſuch county is hereby authoriſed and required to order out the whole or ſuch part of the militia as he may think neceſſary, and in ſuch manner as he may think beſt, for repelling or ſuppreſſing ſuch inſurrection, and ſhall call on the commanding officers of regiments in the adjacent counties for ſuch aid as he may think neceſſary, who ſhall forthwith in like manner furniſh the ſame.

XXXIX. Whenever any militia ſhall be called forth into actual ſervice as aforeſaid, they ſhall be governed by the articles of war, which govern the troops of the United States. And courts-martial ſhall be held as therein are directed, to be compoſed of militia officers only, for the trial of any perſon in the militia; but the caſhiering of any officer, or capital puniſhment of any perſon, the approbation of the executive ſhall be neceſſary; and when any militia ſhall be in actual ſervice of the ſtate, they ſhall be allowed the ſame pay and rations as are allowed by law to the militia of the United States.

XL. The commanding officer of every battalion of militia, ſhall from time to time, as he ſhall deem it neceſſary, appoint an officer, or non-commiſſioned officer (as the caſe may be) and ſo many men of the militia as to him ſhall ſeem neceſſary, once in every month, (or oftener if thereto required by ſuch officer) to patrole and viſit all negro quarters and other places, ſuſpected of entertaining unlawful aſſemblies of ſlaves, ſervants, or other diſorderly perſons, as aforeſaid, unlawfully aſſembled, or any others ſtrolling from one plantation to another, without a paſs from his or her maſter, miſtreſs, or overſeer, and take them before the next juſtice of the peace, who if he ſhall ſee cauſe, is hereby required to order every ſuch ſlave, ſervant, ſtroller, or other diſorderly perſon as aforeſaid, to receive any number of laſhes, not exceeding twenty, on his or her bare back, and in caſe one company of patrollers ſhall not be ſufficient, more companies may in like manner be ordered for the ſame ſervice. And after every patrole, the officer of every party ſhall once in every month at leaſt, return a report in writing upon oath, to the court of the county in which he ſhall reſide, and if the ſaid court ſhall judge the ſaid patrollers to have performed their duty according to law, they are thereunto empowered to levy ſeventy-five cents for every twelve hours each of them ſhall ſo patrole; and every officer failing to appoint patrollers according to the directions of this act, ſhall forfeit and pay twenty dollars for every ſuch failure; and every ſerjeant failing to notify the number of privates ordered by ſuch officer, or to attend ſuch patrole, ſhall forfeit and pay for every ſuch failure three dollars, and every patrole failing to attend ſuch patrole and do his duty, ſhall forfeit and pay one dollar: Which fines ſhall be laid, collected, accounted for, and appropriated as is herein directed, for laying, accounting for and appropriating the ſeveral fines and penalties by this act directed.

XLI. The adjutant-general ſhall be allowed four hundred dollars per year, and that each brigade inſpector ſhall be allowed two hundred dollars per year, for the duties herein required of them, to be paid by the treaſurer on warrant from the auditor, who is hereby authoriſed and required to grant the ſame quarter-yearly, on proper application being made. The adjutant general ſhall, and he is hereby required to eſtabliſh and keep, either in perſon or by deputy, an office in the city of Richmond for the neceſſary tranſaction of the buſineſs annexed to that office. And every brigade inſpector failing to attend the ſeveral regimental muſters of the brigade, ſhall pay for every ſuch failure, fifty dollars.

XLII. The commanding officers of regiments are hereby empowered to receive the commiſſion of any officer of his regiment who may think proper to reſign, and ſhall notify ſuch reſignation to the next ſucceeding court, in order that ſuch vacancy may be ſupplied.

XLIII. All arms, ammunition, and equipments of the militia ſhall be exempted from

executions and diſtreſſes at all times, and their perſons from arreſts and proceſs in civil caſes while going to, continuing at, or returning from muſters, and while in actual ſervice.

XLIV. The militia of the city of Williamſburg, city of Richmond, and borough of Norfolk, ſhall have their officers appointed, and be under the ſame rules and regulations as the different counties.

XLV. The fines and penalties incurred by infants and apprentices for the breach or neglect of their duty in any particular ſervice by law required of them, ſhall be paid by the parent, guardian or maſter.

XLVI. It ſhall be lawful for the lieutenant colonel commandants, and they are hereby required to apppoint a regimental ſtaff, to conſiſt of one adjutant, one quarter-maſter, one pay-maſter, one ſurgeon, one ſurgeon's mate. And it ſhall be the duty of the adjutant to attend the ſeveral regimental and battalion muſters, as alſo the meeting of the officers within his regiment, to aſſiſt in the neceſſary training of the militia, and ſhall be entitled to receive for ſuch ſervice ſuch compenſation as ſhall be adjudged and allowed by the regimental court of enquiry, to be paid by order of the commanding officer of the regiment out of the fines to be collected by virtue of this act.

XLVII. And whereas inconveniencies have ariſen from the want of a ſafe and ſpeedy conveyance of orders from the major and brigadier generals, to the commanding officers of corps, reſpecting the militia of this commonwealth: For remedy whereof, the major-generals, and brigadier generals, are hereby empowered and authoriſed to employ ſome perſon within their reſpective diſtricts, to convey all ſuch orders, who ſhall be exempt from all other militia duty, and ſhall receive ſuch compenſation as the court of enquiry of the regiment in which diſtrict he ſhall reſide ſhall think proper, on his producing a certificate to the court of his having diſcharged the ſaid ſervices.

XLVIII. The governor ſhall cauſe a ſufficient number of copies of this law, together with the act of Congreſs, "More effectually to provide for the national defence by eſtabliſhing "an uniform militia throughout the United States," and the act of Congreſs, "For calling "forth the militia to execute the laws of the union, ſuppreſs inſurrections, and repel in-"vaſions," and the articles of war, to be printed and diſtributed throughout this ſtate, ſo that every general and field officer, and every brigade inſpector and captain, be furniſhed with one copy: And whereas the eſtabliſhment of muſic in the ſeveral corps of militia, would be of great utility; to this end therefore, the commanding officers of regiments ſhall cauſe the drummers and fifers of their reſpective regiments to meet at the ſame times and places that commiſſioned officers are required to meet, for the purpoſe of being trained by the brigade inſpector, there to be inſtructed in their reſpective branches of muſic, for which purpoſe the commanding officer of the regiment may employ ſuch perſons as he may think proper, and capable to inſtruct ſuch drummers and fifers. The perſon ſo to be employed by the commanding officers of regiments ſhall be allowed while engaged in that ſervice, two dollars per day, and each drummer and fifer ſhall be allowed during the time they are ſo convened, one dollar per day, to be paid out of the money ariſing from fines.

XLIX. All acts and parts of acts coming within the purview of this act, ſhall be, and are hereby repealed.

MILLS, MILLDAMS, AND WATERCOURSES.

December the 21ſt, 1792—but commenced Oct. 1, 1793.

§ I. WHEN any perſon owning lands on one ſide of any watercourſe, the bed whereof belongeth to himſelf, or to the commonwealth, and deſiring to build a water griſt-mill on ſuch lands, and to erect a dam acroſs the ſame for working the ſaid mill, ſhall not himſelf have the fee ſimple property in the lands on the oppoſite ſide thereof, againſt

which he would abut his dam, he ſhall make application for a writ of ad quad damnum to the court of the county wherein the lands propoſed for the abutment are, having given ten days previous notice to the proprietor thereof, if he be to be found in the county, and if not, then to his agent therein, if any he hath, which court ſhall thereupon order their clerk to iſſue ſuch writ, to be directed to the ſheriff, commanding him to ſummon and impannel twelve fit perſons, to meet upon the lands ſo propoſed for the abutment, on a certain day to be named by the court, and inſerted in the ſaid writ, of which notice ſhall be given by the ſheriff to the proprietor or his agent, as before directed, if neither of them were preſent in court at the time of the order made. *(a)*

II. The freeholders taken, ſhall be charged by the ſaid ſheriff impartially, and to the beſt of their ſkill and judgment, to view the ſaid lands ſo propoſed for an abutment, and to locate and circumſcribe, by certain metes and bounds, one acre thereof, having due regard therein to the intereſt of both parties, and to appraiſe the ſame, according to its true value; to examine the lands above and below, of the property of others, which may probably be overflowed, and ſay to what damage it will be of to the ſeveral proprietors, and whether the manſion-houſe of any ſuch proprietor, or the offices, curtilage, or garden thereunto immediately belonging, or orchards, will be overflowed; to enquire whether, and in what degree, fiſh of paſſage and ordinary navigation will be obſtructed; whether by any, and by what means ſuch obſtruction may be prevented; and whether, in their opinion, the health of the neighbours will be annoyed by the ſtagnation of the waters. *(a)*

III. The inqueſt ſo made and ſealed by the ſaid jurors, together with the writ, ſhall be returned by the ſaid ſheriff to the ſucceeding court, who ſhall thereupon order ſummonſes to be iſſued to the ſeveral perſons, proprietors, or tenants of the lands ſo located or found liable to damage, if they be to be found within the county, and if not, then to their agents therein, if any they have, to ſhew cauſe why the party applying ſhould not have leave to build the ſaid mill and dam. *(a)*

IV. In the like manner, if the perſon propoſing to build ſuch mill and dam, ſhall have the fee ſimple property in the lands on both ſides the ſtream, yet application ſhall be made to the court of the county wherein the mill-houſe will ſtand, for a like writ; which writ ſhall be directed, executed and returned, as preſcribed in the former caſe. *(a)*

V. If on ſuch inqueſt, or on other evidence, it ſhall appear to the court that the manſion-houſe of any proprietor, or the offices, curtilage, or garden thereto immediately belonging, or orchards, will be overflowed, or the health of the neighbours be annoyed, they ſhall not give leave to build the ſaid mill and dam; but if none of theſe injuries are like to enſue, they ſhall then proceed to conſider whether, all circumſtances weighed, it be reaſonable that ſuch leave ſhould be given, and ſhall give, or not give it accordingly; and if given, they ſhall lay the party applying, under ſuch conditions for preventing the obſtruction, if any there will be, of fiſh of paſſage, and ordinary navigation, as to them ſhall ſeem right. *(a)*

VI. If the party applying, obtain leave to build the ſaid mill and dam, he ſhall, upon paying reſpectively to the ſeveral parties entitled, the value of the acre located, and the damages which the jurors find will be done by overflowing the lands above or below, become ſeized in fee-ſimple of the ſaid acre of land. But if he ſhall not within one year thereafter, begin to build the ſaid mill, and finiſh the ſame within three years, and afterwards continue it in good repair for public uſe, or in caſe the ſaid mill or dam be deſtroyed, if he ſhall not begin to rebuild it within one year after ſuch deſtruction, and finiſh it within three years, the ſaid acre of land ſhall revert to the former proprietor and his heirs; unleſs at the time of ſuch deſtruction of the ſaid mill or dam, the owner thereof be an infant, feme covert, impriſoned, or of unſound mind; in which caſe, he ſhall be allowed the ſame terms for beginning and completing the ſaid mill or dam, after ſuch diſability removed. *(a)*

(a) 1785 c. 82 § 1.

VII. The inqueſt of the ſaid jurors, nevertheleſs, or opinion of the court, ſhall not bar any proſecution or action which any perſon would have had in law had this act never been made, other than for ſuch injuries as were actually foreſeen and eſtimated by the ſaid jury. *(a)*

VIII. When any owner of a mill heretofore or hereafter eſtabliſhed by law, may think it neceſſary to raiſe his dam, the court of the county wherein the pond lieth, upon application to them, ſhall grant a ſecond writ of ad quod damnum, to value the additional damage done thereby, under the ſame rules and regulations as are herein before directed.

IX. All millers ſhall well and ſufficiently grind the grain brought to their mills, and in due turn as the ſame ſhall be brought, and may take for the toll one eighth part, and no more, of all grain, of which the remaining part ſhall be ground into meal; and one ſixteenth part, and no more, of that, the remainder of which ſhall be ground into hominy or malt And every miller or occupier of a mill, who ſhall not well and ſufficiently grind as aforeſaid, or not in due time as the ſame ſhall be brought, or take or exact more toll, ſhall, for every ſuch offence, forfeit and pay two dollars and fifty cents to the party injured, recoverable with coſts, before a juſtice of peace of the county where ſuch offence ſhall be committed. And where the miller ſhall be an indented ſervant, or ſlave, he ſhall, upon the firſt conviction for ſuch offence, receive thirty laſhes; and upon a ſecond conviction, fifty laſhes, on his bare back, well laid on, in lieu of the forfeiture aforeſaid; but upon a third conviction, his maſter or owner ſhall be liable to pay two dollars and fifty cents, and ſo for every ſuch offence by ſuch ſervant or ſlave afterwards committed: *Provided*, That every owner or occupier of a mill, may grind his or her own grain at any time, *(b)*

X. Every owner or occupier of a mill, ſhall keep therein ſealed meaſures of half buſhel and peck, and a toll diſh ſealed, and ſhall meaſure all grain by ſtrike meaſure, under the penalty of paying two dollars and fifty cents for every ſuch failure; recoverable with coſts, before a juſtice of the peace for the county wherein ſuch mill ſhall be, to the uſe of the informer. And if the miller be a ſlave or ſervant, his maſter or owner ſhall be liable to the penalty; or if the owner of ſuch mill ſhall not live within the ſame county, nor have any known attorney therein, the appearance of ſuch ſervant or ſlave before the juſtice to whom ſuch complaint ſhall be made, ſhall be ſufficient for him to proceed againſt the maſter or owner, but if he or ſhe, his or her known attorney, lives in the county, his or her appearance ſhall be required. *(c)*

XI. No owner or tenant of any mill, not having fifty acres of land adjoining thereto, ſhall keep any ſwine unincloſed at ſuch mill, on pain that the ſame ſhall be liable to be taken and converted to his own uſe by the proprietor or tenant of any adjacent lands, or by any other perſon authoriſed by them. *(d)*

XII. The owner or occupier of every dam over which a public road paſſes, ſhall conſtantly keep ſuch dam in repair, at leaſt twelve feet wide at the top through the whole length thereof, and ſhall keep and maintain a bridge of the like breadth with ſtrong rails on each ſide thereof, over the pier head, flood gates, or any waſte, cut through or round the dam, under the penalty of one dollar and ſixty-ſeven cents for every twenty-four hours failure, but where a mill dam ſhall be carried away, or deſtroyed by tempeſt, or accident, the owner or occupier thereof, ſhall not be liable to the ſaid penalties from thence forth until one month after ſuch mill ſhall have been ſo repaired as to have ground one buſhel of grain. *(e)*

XIII. Where the owner of any mill now ſtanding, or licenſed to be built, hath by any act of aſſembly been compelled to make locks, ſlopes, or opening for navigation or the paſſage for fiſh, the ſame ſhall be continued under the conditions impoſed by ſuch act, and ſhall be deemed ſufficient in law, ſo long as the dam now ſtanding or building ſhall remain: But it ſhall not be lawful to rebuild ſuch dam in future, but on enquiry by jury into the ob-

(a) 1785 c 82 § 1 *(b)* 1785 c 82 § 4—1748 c 20 § 9 *(c)* 1748 c 20 § 10 *(d)* 1748 c 20 § 5 *(e)* 1785 c 75 § 1

ſtructions of fiſh and navigation, and the means of preventing the ſame, and the final order of the court, to be applied for, and conducted in the manner before directed in other caſes. *(a)*

XIV. It ſhall not be lawful for any perſon to erect or fix on any water courſe, any dam, hedge, weir, ſeine, drag or other ſtoppage, whereby navigation or the paſſage of fiſh may be obſtructed, ſave only for the purpoſe of working ſome machine or engine, uſeful to the public, in which caſes the ſame proceedings ſhall be had, as are before directed in the caſe of a water griſt-mill, or for the purpoſe of a water griſt-mill, before provided for. And where any ſuch are now ſtanding, or ſhall hereafter be erected or fixed, the owner or tenant of the lands adjacent thereto (whether the ſame were erected or fixed by himſelf or another) ſhall cauſe it to be abated. And whoſo offendeth herein, ſhall be deemed guilty of a nuiſance. *(b)*

XV. And whereas many of the rivers and creeks of this commonwealth are ſtopped and choaked by ſtones, trees, ſtumps and rubbiſh therein, and by hedges, weirs, or ſtone ſtops, in or acroſs the ſame, whereby the paſſage of boats and other veſſels, and of fiſh, is obſtructed, to the great damage of the inhabitants of this commonwealth, and the hindrance of trade and commerce: Where any river or creek ſhall be in one county only, the court of ſuch county ſhall be, and is hereby empowered and required, to contract and agree with any perſon or perſons they ſhall think fit, to clear the ſame, as far as it ſhall be paſſable for loaded boats, if ſuch obſtructions were removed, and to levy ſo much money in their county levy as ſhall be ſufficient to diſcharge ſuch agreement; and where any river or creek in this commonwealth ſhall divide two or more counties, the courts of every ſuch county ſhall join in ſuch agreement, and levy the charge thereof in proportion to the number of tithables in each county: *Provided always*, That nothing herein contained ſhall be conſtrued to oblige any county court or courts to contract for removing rocks, or ſuch obſtructions, in any river or creek, as cannot be removed without the force of gun-powder: *And provided alſo*, That the courts of the counties adjoining to the rivers Meherrin, Nottoway, Roanoke and Rappahannock, above the falls thereof, ſhall not be obliged by this act, to contract for the clearing the ſaid rivers or any of them. *(c)*

XVI. Whoſoever ſhall fell any tree or trees, or cauſe the ſame to be felled into any river or creek, or any run whereon there is or ſhall be erected any public bridge or bridges within this commonwealth, and ſhall not cut and carry away the ſame within the ſpace of forty-eight hours after ſuch felling, ſhall forfeit and pay two dollars and fifty cents for every tree ſo felled and not cut and carried away, to be recovered before a juſtice of the peace of the county where ſuch offence ſhall be committed, and ſhall be to the uſe of the informer. *(d)*

The repealing clauſe is, in ſubſtance, the ſame as in the appendix No. 15.

December the 15th, 1795.

§ I. WHEREAS it hath been repreſented to this aſſembly, that the paſſage of fiſh up Southanna river, in the county of Hanover, is greatly obſtructed by the building of mill-dams acroſs the ſame.

II. It ſhall be lawful for the court of the ſaid county of Hanover, and it is hereby required, upon the application of any perſon or perſons whatſoever for that purpoſe, to grant him or them an order for making or building a ſlope in, or over, any mill-dam lawfully built acroſs the ſaid river; which ſlope or ſlopes ſhall not exceed twenty feet in width, and be ſo conſtructed as to admit the free and eaſy paſſage of fiſh, but not to injure the dam or mill thereby.

(a) 1785 c 82 § 6 *(b)* 1785 c 82 § 8 *(c)* 1748 c 23 § 1, 2 *(d)* 1748 c 23 § 3

December the 10th, 1795.

§ I. WHEREAS it hath been repreſented to this preſent general aſſembly, that the paſſage of fiſh up the South river, in the county of Auguſta, is greatly obſtructed by the building of mill-dams and other dams acroſs the ſame:

II. It ſhall be lawful for the court of the ſaid county of Auguſta, and it is hereby required, upon the application of any perſon or perſons whatſoever for that purpoſe, to grant him or them an order for making or building a ſlope in, or over, any dam lawfully built acroſs the ſaid river; which ſlope or ſlopes ſhall not exceed twenty feet in width, and be ſo conſtructed as to admit the free and eaſy paſſage of fiſh, but not to injure the dam or mill thereby.

MILLDAMS. *See Mills, Milldams and Watercourſes.*

MISFORTUNES. *See Homicide.*

MUTUAL ASSURANCE SOCIETY. *The laws on this head not coming within the deſcription of thoſe to be abridged, are now referred to, only for the convenience of the individuals concerned; to wit:* c 41 *and* c 57, *of the laws of* 1795.

NAVIGATION. *The laws under this head not coming within the deſcription of thoſe to be abridged, the particular rivers to which they refer, are now merely noted as follows: Appamattox, James river, Piankitank, Potowmac, Quantico creek, Rappahannock.*

NEGROES GOING AT LARGE, FREE OR SLAVES. *See Towns, Corporations and Cities.*

NONTENURE OF PARCEL. *See Abatement.*

NOTARIES PUBLIC.

December the 27th, 1792—but commenced Oct. 1, 1793.

§ I. WHEREAS it will be for the eaſe and convenience of the inhabitants of this commonwealth, and all others trading hither, that public notaries ſhould be appointed:

II. The governor, with advice of council for the time being, is hereby empowered and required to nominate and appoint ſo many notaries public as to him ſhall ſeem neceſſary; and upon the death, reſignation, or removal of any ſuch notaries public, to appoint others in his or their room; which ſaid notaries public ſhall hold their reſpective offices during good behaviour, and ſhall uſe and exerciſe the ſaid office of notary public for ſuch places, and within ſuch limits and precincts as the governor and council ſhall direct, to whoſe proteſtations, atteſtations and other inſtruments of publication due credence is hereby given. *Provided nevertheleſs*, that every notary public ſhall previous to his executing the ſaid office, give bond to the governor for the time being, in the penalty of fifteen hundred dollars, conditioned for the due diſcharge of his ſaid office; and ſhall in the high court of chancery,

the general court, or the county court of his precinct, take the oath of fidelity to this commonwealth, and alſo an oath that he will without favor or partiality, honeſtly, diligently and faithfully diſcharge the duties of a notary public.

III. Every public notary ſhall and may demand and receive for recording in a book to be kept for that purpoſe, each atteſtation, proteſtation, and all other inſtruments of publication, the ſum of eighty-three cents and no more.

An ACT *for confirming and better ſecuring the Titles of Lands in the Northern Neck, held under the Right Honourable Thomas Lord Fairfax, Baron of Cameron, in that part of Great Britain, called Scotland.*

§ I. WHEREAS the late King Charles II. by certain letters patents, under the great ſeal of England, bearing date at Weſtminſter, the eighth day of May, in the one and twentieth year of his reign, reciting, that he, taking into his royal conſideration the propagation of the Chriſtian faith, and the manifold benefits ariſing to the church of God, together with the welfare of multitudes of his loyal ſubjects, by the undertaking and vigorous proſecution of plantations of foreign parts, and particularly in his dominions of America, by his letters patent, under the great ſeal of England, bearing date at St. Germains en Ley, the eighteenth day of September, in the firſt year of his reign, for the conſideration therein expreſſed, had given, granted and confirmed, unto Ralph Lord Hopton, Henry Earle of St. Alban's, by the then name of Henry Lord Jermyn, John Lord Culpeper, John Lord Berkeley, of Stratton, by the then name of Sir John Berkeley, Sir William Morton, one of the juſtices of his court of King's bench, by the then name of Sir William Morton, Sir Dudley Wyatt, and Thomas Culpeper, their heirs and aſſigns, for ever; all that entire tract, territory, or parcel of land, ſituate, lying, and being in America, and bounded within the heads of the rivers, Rappahannock and Quiriough, or Patowmac river, the courſes of the ſaid rivers, as they are commonly called and known by the inhabitants, and deſcriptions of thoſe parts, and Cheſapeake bay, together with the rivers themſelves, and all the iſlands within the banks of thoſe rivers, and all woods, under woods, timber, and trees, ways, waters, and rivers, ponds, pools, water courſes, fiſhings, ſtreams, havens, ports, harbours, creeks, wrecks of ſea, fiſh royal, deer, wild beaſts, and fowl, of what nature and kind ſoever, mines of gold and ſilver, lead, tin, iron, and copper, and quarries of ſtone and coal, which then were, or at any time thereafter ſhould be had, coming, being, and ariſing, renewing, accruing, found, or taken, within the bounds or precincts aforeſaid, together with the royalty of hawking and hunting, for themſelves, their heirs, and aſſigns, ſervants, and tenants, in and upon the lands and premiſes aforeſaid; ſaving and reſerving to him, his heirs and ſucceſſors, one full fifth part of all gold mines, or gold ore, and one full tenth part of all ſilver mines, or ſilver ore, thereafter to be found within the ſaid tract or territory of land, to have, hold, and enjoy, all the ſaid entire tract, territory, or portion of land, and all and ſingular other the premiſes, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the ſaid Ralph Lord Hopton, Henry then Lord Germyn, now Earl of St. Alban's, John Lord Culpeper, Sir John Berkeley, now Lord Berkeley, of Stratton, Sir William Morton, Sir Dudley Wyatt, and Thomas Culpeper, their heirs and aſſigns, for ever, to their only uſe and behoof, and to no other uſe, intent, or purpoſe, whatſoever; yielding and paying therefore, yearly, at the feaſt of St. John the Babtiſt, to his ſaid majeſty, his heirs, and ſucceſſors, the ſum of ſix pounds thirteen ſhillings and four-pence, at the receipt of Jameſtown, in the dominion of Virginia, in lieu of all ſervices and demands whatſoever: Reciting alſo that the ſaid Ralph Lord Hopton, John Lord Culpeper, Sir Dudley Wyatt, and Thomas Culpeper, being dead, and the ſaid Lord Hopton having ſold his eſtate and intereſt in the premiſes to John Trethewey, Eſq, the ſaid tract, territory, or

parcel of land, and all and ſingular other the premiſes, had been ſurrendered, together with the ſaid letters patents, to be cancelled, to the intent that his ſaid late Majeſty might grant them new letters patent thereof, with ſuch alterations, proviſoes, and clauſes, as therein after is expreſſed, he the ſaid late King, in conſideration of the ſaid ſurrender and for and in conſideration of the many and faithful ſervices done to his late royal father, of bleſſed memory, and to himſelf, by the ſaid Henry Earl of St. Alban's, John Lord Berkeley, Sir William Morton, and John Trethewey, Eſq. and for divers other good cauſes and conſiderations him thereunto ſpecially moving, of his ſpecial grace, certain knowledge and mere motion, did give, grant, and confirm, unto the ſaid Henry Earl of St. Alban's, John Lord Berkeley, Sir William Morton, and John Trethewey, their heirs and aſſigns forever, all that entire tract, territory or parcel of land, ſituate, lying, and being in America, and bounded by and within the head of the rivers Tappahannock, alias Rappahannock, and Quiriough, alias Patowmac rivers, the courſes of the ſaid rivers, as they are commonly called and known by the inhabitants and deſcriptions of thoſe parts, and Cheſapeake bay, together with the rivers themſelves, and all the iſlands within the banks of thoſe rivers, and all woods, under woods, timber and trees, ways, waters, rivers, ponds, pools, water courſes, fiſhings, ſtreams, havens, ports, harbours, creeks, wrecks of ſea, fiſh royal, deer, wild beaſt and fowl, of what nature and kind ſoever, mines of gold and ſilver, lead, tin, iron and copper, and quarries of ſtone and coal, which then were, or at any time thereafter ſhould be had, coming, being, ariſing, renewing, accruing, found, or taken, within the bounds or precincts aforeſaid, together with the royalties of hawking and hunting, for themſelves, their heirs and aſſigns, ſervants and tenants, in and upon the land and premiſes aforeſaid, and in and upon every part and parcel thereof; ſaving, excepting, and reſerving, to his ſaid late Majeſty, his heirs, and ſucceſſors, one full fifth part of the whole, in five parts to be divided, of all gold mines, or gold ore, one full tenth part of all ſilver mines, and ſilver ore, thereafter to be had or found within the ſaid tract or territory of land, to have, hold, and enjoy, all the ſaid entire tract, territory, or portion of land, and all and ſingular other the premiſes, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the ſaid Henry Earl of St. Alban's, John Lord Berkeley, Sir William Morton, and John Trethewey, their heirs and aſſigns forever, to their only uſe and behoof, and to no other uſe, intent, or purpoſe, whatſoever; yielding and paying therefore, yearly, at the feaſt of St. John the Baptiſt, to his ſaid late majeſty, his heirs, and ſucceſſors, the ſum of ſix pounds thirteen ſhillings and four pence, at the receipt of Jameſtown in Virginia, in lieu of all ſervices and demands whatſoever; with power to divide the ſaid tract or territory of land into counties, hundreds, pariſhes, tithings, townſhips, hamlets, and boroughs, and to erect and build cities, towns, pariſh-churches, colleges, chapels, free-ſchools, alms-houſes, and houſes of correction, and to endow the ſame, at their free wills and pleaſures; and did appoint them full and perpetual patrons of all ſuch churches ſo to be built and endowed, with power of electing, nominating, and preſenting, any fit perſon to the office and place of maſter of any college, or ſchoolmaſter of any ſchool, ſo to be founded and endowed; with power alſo to divide any part or parcels of the ſaid tract or territory, or portion of lands, into manors, and to call the ſame after their own or any of their names, or by other name or names whatſoever, and within the ſame to hold a court, in the nature of a court baron, and to hold pleas of all actions, treſpaſſes, covenants, accounts, contracts, detinues, debts, and demands whatſoever, where the debt or thing demanded exceed not the value of forty ſhillings of current money of England, and to receive and take all amerciaments, fines, commodities, advantages, perquiſites, and emoluments whatſoever, to ſuch reſpective court barons belonging, or in any wiſe appertaining: And further, to hold within the ſaid manors a court leet, and view of frank pledge, of all the tenants, reſidents, and inhabitants, of the hundreds within ſuch reſpective manors, to be holden twice in every year, and to erect fairs, markets, courts of pipowder, with all things incident thereto; and to erect parks

for breeding, feeding, and ſuſtentation of deer, and other wild beaſts of chaſe: And further the ſaid late King, by the ſaid charter, for himſelf, his heirs, and ſucceſſors, did grant and give licenſe to the ſaid Henry Earl of St. Alban's, John Lord Berkeley, Sir William Morton, and John Trethewey, their heirs and aſſigns, freely, and without moleſtation of him, his heirs, and ſucceſſors, to give, grant, or by any ways or means ſell or alien, all and ſingular the premiſes by theſe preſents granted, and every part and parcel thereof, to any perſon or perſons being willing to contract for or buy the ſame; to be holden of the ſaid Henry Earl of St. Alban's, John Lord Berkeley, Sir William Morton, aud John Trethewey, their heirs, and aſſigns, as of any of their aforeſaid manors, in free and common ſoccage, by fealty only, and by ſuit of court, or by any other lawful tenure of terms uſed within the kingdom of England; rendering and paying ſuch rents, and other lawful reſervations, as ſhall ſeem fit and convenient to the ſaid Henry Earl of St. Alban's, John Lord Berekely, Sir William Morton, and John Trethewey, their heirs, and aſſigns, notwithſtanding the ſtatute commonly called quia emptores terrarum, or other ſtatute, act, or ordinance, or proviſion, or any other thing, cauſe, or matter whatſoever, to the contrary notwithſtanding: And further, the ſaid late King, for himſelf, his heirs, and ſucceſſors, did grant to the ſaid patentees, their heirs, executors, and aſſigns, to enlarge and confirm the ſaid letters patent, by granting to them and their hers other new ones, with ſuch favorable conceſſions and grants as might ſupply any defects therein contained; with this proviſo, nevertheleſs, that the ſaid letters patent, or any thing therein contained ſhould not extend, or be conſtrued to extend, to infringe, make void, or other ways prejudice, any contract or contracts, grant or grants, whatſoever, theretofore made or granted by the Governor and Council of Virginia, unto any planters or other inhabitants, then in the actual poſſeſſion thereof, by virtue of any ſuch grants made before the nine and twentieth day of September, in the thirteenth year of his reign; but if any part of ſuch lands ſo granted ſhould eſcheat, or be otherwiſe forfeited, then the ſaid patentees, their heirs, and aſſigns, might diſpoſe thereof, for their beſt benefit and advantage, at their own free wills and pleaſures; with this proviſo alſo, that ſo much of the ſaid granted premiſes, as within the time and ſpace of one and twenty years then next following, ſhould not be poſſeſſed, inhabited, or planted, by the means or procurement of the ſaid patentees, their heirs or aſſigns, that then the ſaid letters patent ſhould ceaſe, determine, and become void; and laſtly, with this further proviſo, that the ſaid patentees, their heirs and aſſigns, ſhould not act or intermeddle in the military affairs or forces of or within the ſaid tract of land and premiſes thereby granted, or any part thereof, or with the government or command of any of the caſtles, forts, or fortifications thereof, without the order, authority, or command of the Governor and Council of Virginia for the time being, or ſuch other perſon or perſons as his ſaid late Majeſty, his heirs, or ſucceſſors, ſhould think fit to diſpoſe the ſame; and that the Governor, Council and Aſſembly of Virginia, for the time being, ſhould have full power and authority to impoſe and lay any taxes and impoſitions upon the ſaid territories thereby granted, and all the lands and premiſes thereby meant and intended to be granted, and all and every the poſſeſſor, inhabitants thereof, for the public and common defence of the ſaid colony of Virginia, and the territory and lands thereby granted, as upon other parts of Virginia, proportionably, when and as often as the neceſſity of the ſaid colony ſhould require the ſame for the common good; and that the ſaid patentees, their heirs and aſſigns, and other inhabitants of or in the premiſes, ſhould be in all things ſubject and obedient to ſuch laws and conſtitutions as were or ſhould be made by the ſaid Governor, Council, and Aſſembly, for or concerning the ſaid colony, or the government thereof, any thing therein before contained to the contrary notwithſtanding, as in the ſaid letters patent more fully is contained.

II. And whereas the late King James the II. by other letters patent, under the great ſeal of England, bearing date at Weſtminſter the ſeven and twentieth day of September, in the fourth year of his reign, reciting the above recited letters patents, and that the ſaid former patentees, their heirs and aſſigns, had, by good and ſufficient conveyance and aſſurance in

the law, for valuable conſiderations, ſold, conveyed and aſſured, the ſaid whole tract, territory, and portion of land, and all and ſingular the premiſes, and every part and parcel thereof, and all their eſtate, right, title and intereſt therein, together with the ſaid letters patents, unto Thomas Lord Culpeper, eldeſt ſon and heir of John late Lord Culpeper, deceaſed, his heirs and aſſigns, forever, who was thereby become ſole owner and proprietor thereof, in fee ſimple, for the conſiderations therein mentioned, did give, grant and confirm, unto the ſaid Thomas Lord Culpeper, all that entire tract, territory, or parcel of land, ſituate, lying and being in Virginia, in America, and bounded by and within the firſt heads or ſprings of the rivers of Tappahannock (alias Rappahannock) and Quiriough (alias Patowmac) rivers, the courſes of the ſaid rivers, from their ſaid firſt heads or ſprings, as they were commonly called and known by the inhabitants, and deſcriptions of thoſe parts, and the bay of Cheſapeake, together with the ſaid rivers themſelves, and all the iſlands within the uttermoſt banks thereof, and the ſoil of all and ſingular the premiſes, and all lands, woods, under woods, timber, and trees, ways, mountains, ſwamps, marſhes, waters, rivers, ponds, pools, lakes, water courſes, fiſhings, ſtreams, havens, ports, harbours, bays, creeks, ferries, with all ſorts of fiſh, as well whales, ſturgeons, and other royal fiſhes, as all others whatſoever, wrecks of ſea, Floatſon, Jetſon, and Lagan, and all ſorts of deer, wild beaſts, and fowl, of what nature or kind ſoever, and all manner of deodands, goods of felons and fugitives, treaſures trove, waiſs, ſtrays, fines, forfeitures, eſcheats, advowſons, royalties, and hereditaments whatſoever, with all mines of gold and ſilver, lead, tin, iron, and copper, and all quarries of ſtone and coal, within the limits and precincts aforeſaid, which then were, or at any time thereafter ſhould be had, coming, being, ariſing, growing, renewing, accruing, found, or taken, within the bounds, limits, precincts, or places aforeſaid, ſaving, excepting, and reſerving, to his ſaid late Majeſty, his heirs, and ſucceſſors, one full fifth part of all gold mines, or gold ore, and one full tenth part of all ſilver mines, and ſilver ore, then being, or which thereafter ſhould be had or found, within the ſaid tract or territory of land; to have, hold, and enjoy, all the ſaid entire tract, territory, or portion of land, and every part and parcel thereof, and all and ſingular other the premiſes, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the ſaid Thomas Lord Culpeper, his heirs and aſſigns, forever, to his and their only uſe and behoof, and to no other uſe, intent, or purpoſe whatſoever; yielding and paying therefore, yearly, from thenceforth, on the feaſt of St. John the Baptiſt, to his ſaid late Majeſty, his heirs and ſucceſſors, the ſum of ſix pounds thirteen ſhillings and four pence, at the receipt of Jameſtown, in the colony of Virginia, in lieu of all ſervices and demands, whatſoever, the firſt payment to be made on the feaſt day of St. John the Baptiſt next enſuing the date of the ſaid letters patent: And his ſaid late Majeſty did thereby, for himſelf, his heirs, and ſucceſſors, further give, grant, ratify and confirm, to the ſaid Thomas Lord Culpeper, his heirs and aſſigns, forever, all and ſingular the grants, powers, authorities, privileges, licenſes, and clauſes, in the ſaid herein before recited letters patents mentioned, granted, or conveyed, in as large and ample manner, to all intents and purpoſes whatſoever, as if the ſame and every of them, had been particularly granted and expreſſed in theſe his letters patent, except only the abovementioned proviſo; and his ſaid late Majeſty did further, of his eſpecial grace, certain knowledge, and mere motion, for himſelf, his heirs, and ſucceſſors, fully and abſolutely, forever, releaſe and diſcharge the ſaid abovementioned proviſo, and every part thereof, and every matter and thing therein contained, in as large and ample manner, to all intents and purpoſes whatſoever, as if the ſame had never been made, thereby declaring the ſame to be null and void, and the ſaid Thomas Lord Culpeper, his heirs and aſſigns, and the tract, territory, and premiſes, and every part thereof, to be forever freed, cleared and diſcharged, from the ſame, ſo and in ſuch manner, that the ſaid Thomas Lord Culpeper, his heirs, and aſſigns, might freely and abſolutely enter into, have, hold, occupy,

poſſeſs, and enjoy, the ſaid tract, territory, and all and ſingular other the premiſes, freed and diſcharged of the ſaid proviſo, and all right, title, and equity, thereupon to be had, in as large, ample, and beneficial manner, to all intents and purpoſes, as if the ſame proviſo had been never had or made, any thing in the ſaid recited letters patent, or any thing therein, or in the laſt mentioned letters patent, to the contrary thereof in any wiſe, notwithſtending, as in the ſaid laſt recited letters patent more is fully contained.

III. And whereas the Right Honorable Thomas Lord Fairfax, baron of Cameron, in that part of Great-Britain called Scotland, heir at law to the ſaid Thomas Lord Culpeper, is now become ſole proprietor of the ſaid territory, with the appurtenances, and the above recited letters patents; and whereas divers great quantities of land have been granted to adventurers and planters within the ſaid territory, in fee ſimple, by the agents and attornies of the ſaid Lord Fairfax, and his predeceſſors, former proprietors of the ſaid territory, and letters patents, by virtue of divers letters of attorney, from time to time, by them reſpectively given and granted to their ſaid attornies and agents, but now of late, after long poſſeſſions, and great and valuable improvements made upon the ſaid lands, by ſuch grantees, queſtions are like to ariſe between them and the ſaid preſent proprietor touching the validity of ſuch grants, as well in reſpect to a conſtruction ſet up and maintained, of the ſaid letters of attorney, that the powers therein contained were not full and ſufficient to enable and warrant the ſaid agents and attornies to paſs away eſtates in fee ſimple, as in reſpect to the ſaid Lord proprietor's eſtate in the premiſes, the ſame being now held by him as tenant in taille, under the will or wills of ſome of his anceſtors, whereby the minds of many of his Majeſty's good ſubjects, poſſeſſors of lands and tenements within the ſaid territory, are greatly diſquieted, and many controverſies and expenſive law ſuits may probably enſue: For the prevention whereof, and for ſettling peace between his Lordſhip and his ſaid tenants:

IV. From henceforth, all and every grant and grants, heretofore duly and regularly made and paſſed, by any of the agents or attornies of the proprietors of the ſaid territory, or any of them, ſhall be good, available, and binding in law, to paſs ſuch eſtate or eſtates as therein have been granted; and the grantees, their heirs and aſſigns, reſpectively, ſhall forever hereafter peaceably and quietly have, hold, and enjoy, the ſame granted premiſes, according to ſuch granted eſtates, under the rents and ſervices by the ſaid grants reſerved, notwithſtanding the infancy, coverture, or any miſpriſion or miſtake of the names, dignity, or title of the ſaid proprietors, or either of them, or any miſrecital, omiſſion, or defect, in the ſaid grant or grants, or any of them, ſo as the ſame have been made and ſigned by the agents or attornies of the ſaid proprietors, or the huſband, guardian or guardians, truſtee or truſtees, of any of them, and paſſed under the common ſeal of the office kept by them for that purpoſe.

An ACT *for confirming the grants made by his Majeſty, within the bounds of the Northern-Neck, as they are now eſtabliſhed.*

§ I. WHEREAS in the late diſpute and controverſy touching the limits and boundaries of the ſeveral letters patent, granted by their late Majeſties King Charles the ſecond and King James the ſecond, unto the anceſtors of the Right Honorable Thomas Lord Fairfax, it hath been adjudged and determined by his preſent Majeſty in council, that the ſaid letters patent do include all that tract or territory of land between the rivers Patowmac and Rappahannock, and the line now marked from the head ſpring of the ſaid river Patowmac to the head ſpring of Rappahannock, commonly called the Conway, in which ſaid tract or territory of land, as is before deſcribed, many adventurers and planters have taken up great quantities of land, and obtained grants and patents thereof from the crown, under ſeal of this colony; and whereas the ſaid Thomas Lord Fairfax hath conſented, before the King in Council, that the ſeveral grants and patents, made by the Crown, of the lands included in the boundary aforeſaid, ſhould be confirmed to the ſeveral grantees, their heirs and aſ-

ſigns, to be held nevertheleſs of the ſaid Lord Fairfax, under the like rents, ſervices, profits and emoluments, as ſhould be paid, done, and ariſe, by and from the ſaid grants made by the Crown.

II. All grants and patents whatſoever under the ſeal of this colony, for lands ſituate and lying within the limits and boundaries of the letters patent granted to the anceſtors of the ſaid Lord Fairfax, as the ſame are now ſettled and determined, heretofore made and granted by the Crown, ſhall be held, deemed and taken, to be valid and effectual; and the adventurers and planters to whom the ſame were granted, their heirs and aſſigns, ſhall forever hereafter peaceably and quietly have, hold and enjoy, the ſaid granted premiſes, reſpectively, according to ſuch granted eſtates, under the rents and ſervices in the ſaid grants reſerved, to be paid and performed to the ſaid Thomas Lord Fairfax, his heirs and aſſigns, forever, any miſrecital or defect in the ſaid grants notwithſtanding.

OATHS.

December the 22d, 1792—but commenced Oct. 1, 1793.

§ I. EVERY perſon by law required to give aſſurance of fidelity, ſhall for that purpoſe take an oath in this form:

"I , do declare myſelf a citizen of the commonwealth of Virginia; I re-
"linquiſh and renounce the character of ſubject or citizen of any prince or other ſtate
"whatſoever, and abjure all allegiance which may be claimed by ſuch prince or other
"ſtate; and I do ſwear to be faithful and true to the ſaid commonwealth of Virginia, ſo
"long as I continue a citizen thereof. So help me God." *(a)*

II. No perſon ſhall have power to act in any office, legiſlative, executive, or judiciary, before he ſhall have given ſuch aſſurance, and ſhall moreover have taken ſuch of the following oaths, if another be not ſpecially preſcribed, as is adapted to his caſe. *(a)*

III. The oath of a governor:

"I , elected governor of Virginia, by the repreſentatives thereof, do ſo-
"lemnly promiſe and ſwear, that I will to the beſt of my ſkill and judgment, execute the
"ſaid office diligently and faithfully according to law, without favour, affection, or par-
"tiality; that I will, to the utmoſt of my power, protect the citizens of the common-
"wealth in the ſecure enjoyment of all their rights, franchiſes, and privileges, and will
"conſtantly endeavour that the laws and ordinances of the commonwealth be duly obſerv-
"ed, and that law and juſtice, in mercy, be executed in all judgments; and, laſtly, that
"I will peaceably and quietly reſign the government to which I have been elected, at the
"ſeveral periods to which my continuance in the ſaid office is or ſhall be limited by law
"and the conſtitution. So help me God." *(a)*

IV. The oath of a privy councillor:

"I , elected one of the privy council of Virginia, by the repreſentatives
"thereof, do ſolemnly promiſe and ſwear, that I will to the beſt of my ſkill and judgment,
"execute the ſaid office diligently and faithfully according to law, without favour, affec-
"tion, or partiality, and that I will keep ſecret ſuch proceedings and orders of the privy

(a) 1779 c 5.

" council, as the board ſhall direct to be concealed, unleſs the ſame be called for by either " houſe of general aſſembly. So help me God." *(a)*

V. The oath of one not ſpecially directed to take any other:

" I , do ſolemnly promiſe and ſwear, that I will faithfully, impartially and " juſtly, perform the duty of my office of , according to the beſt of my ſkill " and judgment. So help me God." *(a)*

VI. The ſaid oaths to be taken by a member or officer of either houſe of general aſſembly, ſhall be adminiſtered by any member of the privy council, and the taking thereof ſhall be certified to the clerk of ſuch houſe; and the ſaid oaths to be taken by any other perſon, if it be not otherwiſe directed, ſhall be adminiſtered in ſome court of record, or by any judge or juſtice thereof, and the taking thereof ſhall be recorded in the ſaid court.

VII. Every counſel or attorney before he be permitted to practice in any court within this commonwealth, ſhall take the following oath before ſuch court:

" I do ſwear that I will honeſtly demean myſelf in the practice of a counſel, attorney, " or proctor, and will execute my office to the beſt of my knowledge and ability." *(b)*

VIII. Any perſon refuſing to take an oath, and declaring religious ſcruples to be the true and only reaſon of ſuch refuſal, if he will uſe the ſolemnity and ceremony, and repeat the formulary obſerved on ſimilar occaſions, to thoſe of the church or religious ſociety he profeſſeth himſelf to be a member of, or to join in communion with, ſhall thereupon be deemed as competent a witneſs, or to be as duly qualified to execute an office, or perform any other act, to the ſanction whereof an oath is, or ſhall be required by law, and ſhall be ſubject to the ſame rules, derive the ſame advantages, or incur the ſame penalties or forfeitures, as if he had ſworn. In preſentments, indictments, inquiſitions, verdicts, examinations, or other forms, the words " upon their oath," or " ſworn," may be left out, and inſtead of them, " in ſolemn form," or " charged," which ever may be adapted to the caſe, may be inſerted; but if the ancient form be adhered to, it ſhall not be adjudged error.

The repealing clauſe is as in the appendix No. 12.

OBLIGATIONS. *See Bills of Exchange and Aſſignees of Obligations—See alſo Partition, Joint-Rights and Obligations.*

OFFENCES AGAINST THE TRANQUILITY OF VIRGINIA. *See Treaſon.*

OFFENCES OUT OF THE JURISDICTION OF VIRGINIA. *See Treaſon.*

OFFICES.

December the 8th, 1788.

§ I. WHEREAS the good people of this commonwealth, in convention aſſembled, did on the twenty-fifth day of June laſt, ratify a conſtitution for the government of the United States of America, the operations of which will ſoon commence; and whereas it is judged expedient and neceſſary that all thoſe who ſhall be employed in the

(a) 1779 c 5 *(b)* 1786 c 56.

adminiſtration of the ſaid government, ought to be diſqualified from holding or adminiſtering any office or place whatſoever under the government of this commonwealth;

II. The members of the congreſs of the United States, and all perſons who ſhall hold any legiſlative, executive, or judicial office, or other lucrative office whatſoever under the authority of the United States, ſhall be ineligible to, and incapable of holding any ſeat in either houſe of the general aſſembly, or any legiſlative, executive, or judicial office, or other lucrative office whatſoever under the government of this commonwealth: *Provided nevertheleſs*, That ſuch diſqualification ſhall not extend to militia officers, or the magiſtrates of county courts.

October the 19th, 1792—but commenced Oct. 1, 1793.

§ I. IF any perſon or perſons ſhall bargain or ſell any office or offices, or deputation of any office or offices, or any part or parcel of any of them, or receive or take any money, fee or reward, or any other profit directly or indirectly, or take any promiſe, agreement, covenant, bond, or any aſſurance to receive or have any money, fee, or reward, or other profit directly or indirectly, for any office or offices, or for the deputation of any office or offices, or any part of any of them, or for a vote in appointing to any office or offices, or the deputation of any office or offices, to the intent that any perſon ſhould have, exerciſe, or enjoy any office or offices, or deputation of any office or offices, or any part or parcel of them, which ſhall in any wiſe touch or concern the adminiſtration of the executive government, or the adminiſtration or execution of juſtice, or the receipt or payment of the public revenue, or which ſhall concern or touch any clerkſhip in a court of record, all and every perſon or perſons ſo offending, ſhall be incapable of appointing or voting for the appointment to any ſuch office, and ſhall be adjudged a diſabled perſon in law, to all intents and purpoſes, to have, occupy, or enjoy the office in virtue of which he holds, or ſhall hold the right of appointing or voting for the appointment to ſuch office, and ſhall moreover be amerced and impriſoned at the diſcretion of a jury; and if a member of either houſe of aſſembly, he ſhall moreover be expelled from the ſame, and forever after diſabled from being elected a member of the general aſſembly. *(a)*

II. Every perſon who ſhall directly or indirectly give or pay any money, fee or reward, or ſhall make any promiſe, agreement, bond or aſſurance to give any money, fee or reward whatſoever for any vote or appointment to any office, which concerns the adminiſtration of the executive government, or the adminiſtration or execution of juſtice, or the receipt or payment of the public revenue, or for the clerkſhip in any court of record, or for the deputation or deputations to any of the ſaid offices, ſhall be utterly incapable of ſerving in any ſuch office. *(a)*

III. Every ſuch bargain, ſale, promiſe, bond, covenant, agreement, and aſſurance, as before ſpecified, ſhall be utterly void and of no effect.

IV. *Provided always*, That nothing in this act contained, ſhall be ſo conſtrued as to prohibit the appointment, qualification, and acting of any deputy clerk, or debuty ſheriff, who ſhall be employed to aſſiſt their principals in the execution of their reſpective offices.

V. *Provided always*, That if any perſon or perſons ſhall be convicted of having offended againſt this act, yet all judgments given, and all other acts executed or done by any ſuch perſon or perſons ſo offending, by authority or colour of the office or deputation which ought to be forfeited, or not occupied, or not enjoyed, by the perſon ſo convicted, after the offence ſo by ſuch perſon committed or done, and before ſuch perſon ſo offending for the ſame offence be removed from the exerciſe, adminiſtration, and occupation of the ſaid office or deputation, ſhall be good and ſufficient in law to all intents, conſtructions,

(a) St. 5 & 6 Edw. VI. c 16.

and purpoſes, in ſuch like manner and form as the ſame ſhould or ought to have remained and been, if this act had never been made.

The repealing clauſe is as in the appendix No. 18.

November the 24th, 1794.

NO ſenator or delegate, ſhall during the time for which he was elected, be appointed to any civil office under the authority of the commonwealth, which ſhall have been created, or the emoluments whereof ſhall have been encreaſed or decreaſed during ſuch time.

OFFICERS. See Public Debt.

ORDINARIES AND TIPPLING HOUSES.

December the 26th, 1792—but commenced Oct. 1, 1793.

§ I. EVERY perſon intending to ſet up or keep an ordinary, or houſe of public entertainment, ſhall firſt petition the court of that county wherein ſuch ordinary is intended to be, and obtain a licenſe for keeping the ſame; and the juſtices of the court to whom ſuch petition ſhall be exhibited, ſhall thereupon conſider the convenience of the place propoſed, and the ability of the petitioner to provide and keep good and ſufficient houſes, lodging and entertainment for travellers, their ſervants and horſes; but the court ſhall not under pretence of keeping any poor perſon from being chargeable to the pariſh, licenſe any ſuch perſon to ſell liquors to the prejudice of the neighbouring inhabitants; and if ſuch petition ſhall appear reaſonable, ſuch court is hereby authoriſed, and may, if they think fit, grant the petitioner a licenſe to keep an ordinary, for the term of one year next enſuing the date of ſuch licenſe, and from thence till the next court held for the ſaid county, and no longer; which licenſe ſhall be ſigned by the firſt juſtice ſworn in the commiſſion of the peace for ſuch county, and may, upon petition, be renewed from year to year, if the court ſhall think fit. *(a)*

II. *Provided always*, That before iſſuing ſuch licenſe, the petitioner ſhall enter into bond with ſufficient ſecurity, to the effect following:

"Know all men by theſe preſents, That we, A. B. and C. D. are held and firmly bound "to , Governor of the commonwealth of Virginia, in the ſum of one hundred "and fifty dollars; to which payment, well and truly to be made, to the ſaid "or his ſucceſſors, we bind ourſelves, and every of us, our and every of our heirs, execu- "tors, and adminiſtrators, jointly and ſeverally, by theſe preſents. Witneſs, our hands and "ſeals, this day of , in the year one thouſand hundred and

"The condition of the above obligation is ſuch, that whereas the above bound A. B. hath "obtained a licenſe to keep an ordinary at , in the county of , if there- "fore, the ſaid A. B. doth conſtantly find and provide in his ſaid ordinary, good, wholeſome "and cleanly lodging and diet for travellers, and ſtableage, fodder, and provender, or paſtu- "rage and provender, as the ſeaſon ſhall require, for their horſes, for and during the term "of one year from the day of the date of theſe preſents, and from thence till the next court "held for the ſaid county of , and ſhall not ſuffer or permit any unlawful gaming "in his houſe, nor on the ſabbath day ſuffer any perſon to tipple and drink more than is ne- "ceſſary, then this obligation to be void, otherwiſe to remain in full force." *(a)*

(a) 22 Geo. II. c 24 § 1.

III. The juſtices of every county court within this commonwealth ſhall, at their March court, or at any other court, ſet the rates and prices to be paid at all ordinaries within their reſpective counties, for liquors, diet, lodging, provender, ſtableage, fodder, and paſturage, and may increaſe or leſſen the rates as often as they ſhall ſee cauſe, but ſhall not fail to fix the rates at leaſt twice in a year, under the penalty of fifteen dollars, on every member of ſuch court ſo failing; and every ordinary keeper ſhall within one month after the rates ſo ſet, or from time to time altered, ſet up a copy of the rates aforeſaid, atteſted by the clerk of the court, in ſome public entertaining room in his tavern, to be placed not more than ſix feet above the floor, and ſo long as he neglects this after the month, he ſhall have no right to demand any price for a rated article, and moreover be ſubject to a penalty of ſeven dollars. And if any ordinary keeper ſhall demand and take greater price for any drink, diet, lodging, provender, ſtableage, fodder or paſturage, than by ſuch rates ſhall be allowed, he or ſhe ſo offending, ſhall forfeit and pay twelve dollars for every ſuch offence, to the informer, recoverable with coſts before a juſtice of the peace of the county wherein ſuch ordinary ſhall be. And the penalty on each member of the court failing to fix the rates, and on the tavern keeper for not ſetting up a table of the ſame, ſhall be recoverable by action of debt or information, by any perſon who will ſue for the ſame, in any court of record within this commonwealth. *(a)*

IV. If any perſon without ſuch licenſe, ſhall open a tavern, or ſell by retail, wine, beer, cyder, rum or brandy, or other ſpirituous liquors, or a mixture thereof, to be drank in, or at the place where it ſhall be ſold, or in any booth, arbor, or ſtall, ſuch offence ſhall be deemed a breach of good behaviour, and he or ſhe ſo offending, ſhall moreover forfeit and pay the ſum of thirty dollars, to be applied towards leſſening the county levy. *(b)*

V. Every perſon having been convicted of keeping a tippling houſe, or retailing liquors as aforeſaid, who ſhall afterwards be guilty of the ſame offence, and be thereof again convicted, ſhall, by the court before whom ſuch conviction ſhall be had, be committed to priſon, there to remain for and during the term ſix months, without bail or mainprize. *(c)*

VI. The preſiding juſtice preſent, ſhall give this act in ſpecial charge to the grand jury of the county, at every grand jury court; and whenever any proſecution, or ſuit ſhall be inſtituted thereupon, the court before whom the ſame ſhall be depending, ſhall proceed to ſpeedy trial thereof, out of courſe, and without delay. *(c)*

VII. And every juſtice of the peace is hereby required and ſtrictly enjoined to cauſe this act to be put in ſtrict execution within his county. And if any juſtice, either from information, his own knowledge, or other juſt couſe, ſhall ſuſpect any perſon of keeping a tippling houſe, or retailing liquors, as aforeſaid, he is hereby empowered and required, to ſummon ſuch perſon to appear before him, together with ſuch witneſſes as he may judge neceſſary; and upon the perſon's appearing, or failing to appear, if the juſtice, upon examining the witneſſes upon oath, ſhall find ſufficient cauſe, he may, and is hereby required to direct the attorney for the commonwealth in ſuch county, to inſtitute a proſecution againſt ſuch perſon on the public behalf, which ſuch attorney is hereby required to inſtitute accordingly. And ſuch juſtice may alſo cauſe the perſon ſo ſuſpected, to give bond with two ſufficient ſecurities, for his or her good behaviour, for the term of one year, the principal in the ſum of one hundred and fifty dollars, and the ſecurities in the ſum of ſeventy-five dollars each; and upon failing to give ſuch bond and ſecurity within three days, after being thereto required, ſuch perſon may be committed to the jail of the county, there to remain until he or ſhe ſhall give bond and ſecurity accordingly; and if ſuch perſon ſhall afterwards during the ſaid term, keep a tippling houſe, or retail liquors, as aforeſaid, the ſame ſhall be, and is hereby declared a breach of the good behaviour, and of the condition of ſuch bond. *(c)*

(a) 22 Geo. II. c 24 § 1—Oct. 1779 c 13 § 4—1785 c 74. *(b)* 22 Geo. II. c 24 § 4. *(c)* Oct. 1779 c 13 § 2.

VIII. *Provided always*, That nothing in this act ſhall extend or be conſtrued to prohibit any perſon or perſons from retailing ſuch liquors as ſhall actually have been made from the produce of ſuch perſon's own eſtate, or brewed or diſtilled by him, her, or them, or thoſe in his, her, or their employ; nor to prohibit any merchant or perſon keeping ſtore for the ſale of merchandize, from retailing liquors, ſo as ſuch liquors be not drank, or intended to be drank at the houſe or plantation where the ſame ſhall be ſold. And in caſe any diſpute ſhall ariſe as to the making ſuch liquors, the burthen of proof ſhall be on the defendant. *(a)*

IX. If gueſts or others play at any game contrary to law in a tavern, or in any outhouſe, or under any booth, arbor, or other place upon the meſſuage, or tenement in poſſeſſion of any tavern keeper, and the keeper thereof ſhall not endeavour to hinder them, and if they perſiſt, to give information of the offence, and to give in the names of the offenders, within one month thereafter, to the court, or to two juſtices of the peace, his licenſe ſhall be revoked by the court, and he ſhall pay to the informer twenty dollars, unleſs being ſummoned to ſhew cauſe to the contrary, he appear and prove ſuch facts, as induce them to believe, not only he did not know of, but moreover, that he had no reaſon to ſuſpect ſuch playing. *(b)*

X. If the keeper of any ordinary or tavern, ſhall in his houſe, ſuffer any perſon to tipple or drink more than is neceſſary, on the Lord's day, or on any other day ſet apart by public authority for religious worſhip, or ſhall harbour or entertain any ſeaman, contrary to law, ſuch tavern keeper ſhall be deprived of his licenſe in the ſame manner. *(c)*

XI. If any keeper of a tavern or ordinary, ſhall ſell drink to any ſailor in actual pay on board any ſhip, on credit, he or ſhe ſhall not recover any money, tobacco, or other commodity, for liquors ſo ſold upon credit, but every ſuch debt, obligation or ſpecialty, ſhall be void: And if any warrant, petition, writ, or bill be proſecuted or exhibited againſt any perſon for the ſame, ſuch warrant, petition, writ, or bill, ſhall be diſmiſſed, and the defendant ſhall have double coſts. *(d)*

XII. If any ordinary keeper ſhall ſell any liquor whatſoever upon credit, to any ſailor in actual pay on board any ſhip or other veſſel, or ſhall harbour, entertain, or ſell drink to any ſuch ſailor, without licenſe from the maſter of the veſſel or ſhip, to which the ſailor belongs, ſuch ordinary keeper ſhall for every ſuch offence, forfeit and pay two dollars to the maſter of the ſhip or veſſel, recoverable with coſts, before any juſtine of the peace of the county, wherein ſuch ordinary keeper lives. *(e)*

XIII. No keeper of a tavern ſhall recover more than five dollars for liquor ſold within the ſpace of a year to one perſon, reſiding leſs than twenty miles from ſuch tavern, and drank, or ſold to be drank, in the place where it is kept; and a written contract, or bond, or other ſpecialty for payment, delivery, or ſecurity of money or other thing, for performance of any work or ſervice, whereof the whole, or any part, ſhall have become due for liquors ſo ſold, ſhall be void. *(f)*

XIV. The ſeveral corporation courts within this commonwealth, ſhall have the ſole power of granting or revoking licenſes to ordinary keepers, within their reſpective juriſdictions: *Provided*, That ſuch licenſes be granted in the manner above directed by this act.

XV. All the penalties and forfeitures by this act given or laid, and not herein before appropriated, ſhall be, one moiety to the uſe of the commonwealth, and the other to the informer, to be recovered with coſts, in any court of record within this commonwealth.

The repealing clauſe is, in ſubſtance, the ſame as in the appendix No. 20.

(a) 22 Geo. II. c 24 § 5—Oct. 1779 c 13 § 3 *(b)* 1785 c 74. *(c)* 22 Geo. II. c 24 § 6 *(d)* 22 Geo II. c 24 § 7. *(e)* 22 Geo. II. c 24 § 8 *(f)* 1785 c 74.

ORPHANS. See Guardians, Orphans, Committees, Infants, Maſters, and Apprentices.

OVERSEERS OF POOR. See Poor.

PARDON. See Treaſon.

PARTITION, JOINT-RIGHTS AND OBLIGATIONS.

November the 28th, 1786—but commenced July 1, 1787.

§ I. ALL joint tenants, or tenants in common, who now are, or hereafter ſhall be, of any eſtates of inheritance in their own rights, or in the right of their wives, and all joint tenants, or tenants in common, who now hold or hereafter ſhall hold, jointly, or in common, for term of life or years, with others who have, or ſhall have eſtates of inheritance, of freehold in any lands, tenements, or hereditaments, may be compelled to make partition between them of ſuch lands, tenements and hereditaments as they now hold or hereafter ſhall hold, as joint tenants, or tenants in common, by writs de partitione facienda, the forms whereof ſhall be deviſed in the general court, and adapted to the caſes aforeſaid: But no ſuch partitions between joint tenants, or tenants in common, who hold or ſhall hold eſtates for term of life or years, with others holding equal or greater eſtates, ſhall be prejudicial to any entitled to the reverſions or remainders, after the death of the tenants for life, or after the expiration of the years.

II. If partition be not made between joint tenants, whether they be ſuch as might have been compelled to make partition, or not, or of whatever kind the eſtates or thing holden or poſſeſſed be, the parts of thoſe who die firſt, ſhall accrue to the ſurvivors, but ſhall deſcend or paſs by deviſe, and ſhall be ſubject to debts, charges, curteſy, or dower, or tranſmiſſible to executors or adminiſtrators, and be conſidered to every other intent and purpoſe, in the ſame manner as if ſuch deceaſed joint tenants had been tenants in common.

III. The repreſentatives of one jointly bound with another for the payment of a debt, or for performance or forbearance of any act, or for any other thing, and dying in the life-time of the latter, may be charged by virtue of ſuch obligation, in the ſame manner as ſuch repreſentatives might have been charged if the obligors had been bound ſeverally, as well as jointly.

IV. Partition may be demanded by one and the ſame writ, of all the ſeveral parcels of land or other real eſtate to which the parties have title, and execution thereupon done by the theriff and jury, as heretofore, or by ſpecial commiſſioners to be appointed by the court, with aſſent of the parties, by allotment to each party of part in each parcel, or of parts in one or more parcels, or of one or more individual parcels, with or without the addition of a part or parts of other parcels, as ſhall be moſt for the intereſt of the parties in general.

V. No plea in abatement ſhall be received in any ſuit for partition, nor ſhall it abate by the death of any tenant.

VI. After a writ of partition returned, affidavit being made by ſome credible perſon, that due notice of the writ had been given to the tenant or tenants to the action, and that a copy thereof had been left with him, her, or them, if he, ſhe, or they could be found, or if not, that ſuch notice had been given to, and a copy left with the wife, ſon, or daughter, being of the age of twenty-one years, or upwards, and at the uſual place of abode of ſuch as could not be found, or the perſon in actual poſſeſſion, not being the demandant of the

lands whereof partition is demanded, twenty days or more before the day of return, if the tenant or tenants ſhall not cauſe an appearance to be entered, at the time by law appointed, or within one month thereafter, the demandant having filed his or her declaration, the court may proceed to examine, his or her title, and the quantity demanded, and ſhall give judgment by default, for ſo much as he or ſhe ſhall appear to them to have a right to, and award a writ to make partition, which being executed, after eight days notice given to the perſons mentioned before, judgment final ſhall thereupon be given, which ſhall be as binding as if it had been given after an appearance and upon a trial, unleſs any tenant within one year after the firſt judgment, or being an infant, a married woman, or unſound mind, or out of Virginia, within one year after attainment of full age, death of the huſband, recovery of underſtanding, or return to the country, reſpectively, by motion to the court, either admitting the demandant's right and purpart, ſhall ſhew inequality in the partition, in which caſe the court may award a new partition to be made, and that in preſence of all the parties, if they chooſe to attend it, and the ſecond partition ſhall be as binding as if the tenant had appeared and pleaded in the firſt inſtance, or elſe ſhall ſhew ſufficient matter in bar of the partition, or that the demandant hath not title to ſo much as he or ſhe hath recovered, in which caſe the court may ſuſpend or ſet aſide the judgment, and admit the tenant to appear and plead, and the cauſe ſhall proceed as if no judgment had been given, and if upon the trial thereof, the court ſhall give the ſame judgment as the firſt, it ſhall ſtand confirmed, and the perſon or perſons, in whoſe behalf the motion was made, ſhall be awarded to pay coſts.

VII. The under ſheriff, when the high-ſheriff cannot conveniently attend, may, in preſence of two juſtices of the peace, proceed to the execution of a judgment in partition, by inquiſition in due form of law, and the high-ſheriff ſhall make the ſame return as if he had acted in perſon.

VIII. They who were tenants of the meſſuages, lands, tenements, and hereditaments, or any part thereof, before they were divided, ſhall hold the ſame of the landlords, to whom they ſhall be allotted by the partition, in ſeveralty, under the ſame conditions, rents, covenants, and reſervations, and the landlords ſhall warrant the ſeveral parts unto the tenants, as they were bound to do by leaſes or grants, reſpectively: And any demandant who was tenant, in actual poſſeſſion, to the tenant to the action, for his purpart of the meſſuages, lands, tenements, and hereditaments, divided by virtue of a writ of partition, or any part thereof, ſhall hold it for the ſame term, and under the ſame conditions and covenants when it ſhall be allotted in ſeveralty.

PAUPERS. *See Poor.*

PEACE. *See Conſervators of the Peace.*

PENAL STATUTES. *See Criminals, Crimes, Offences, and Proſecutions.*

PERJURY AND EMBRACERY.

December the 1ſt, 1789.

§ I. ALL and every perſon and perſons who ſhall unlawfully and corruptly procure any witneſs or witneſſes by letters, rewards, promiſes, or by any other ſiniſter and unlawful labour or means whatſoever, to commit any wilful and corrupt perjury in any

matter or cauſe whatſoever, now depending, or which hereafter ſhall depend in ſuit and variance by any writ, action, bill, complaint, or information in any wiſe touching or concerning any lands, tenements, or hereditaments, or any goods, chattels, debts, or damages in any of the courts of this commonwealth; or ſhall likewiſe unlawfully and corruptly procure or ſuborn any witneſs or witneſſes which ſhall be ſworn to teſtify in perpetuam rei memoriam, or any criminal proſecution, or in any examination or controverſy before a juſtice or juſtices of the peace, or before any commiſſioners appointed to take depoſitions, that then every ſuch offender or offenders, ſhall for his, her, or their ſaid offence, being thereof lawfully convicted, be adjudged to pay a fine not exceeding two hundred pounds, and to ſuffer impriſonment for the ſpace of one year, without bail or mainprize.

II. If any perſon or perſons, either by the ſubornation, unlawful procurement, ſiniſter perſuaſion, or means of any other, or by their own act, conſent, or agreement, wilfully and corruptly commit any manner of wilful perjury by his or their depoſition in any of the courts of this commonwealth, or before any juſtice or juſtices of the peace, or before any commiſſioners appointed to take depoſitions, or being examined in perpetuam rei memoriam, that then every perſon and perſons ſo offending, and being thereof duly convicted, ſhall for his or their ſaid offence be adjudged to pay a fine not exceeding one hundred pounds, and to ſuffer impriſonment by the ſpace of ſix months without bail or mainprize, and the oath of ſuch perſon or perſons ſo offending in any of the caſes of perjury or ſubornation of perjury in this act mentioned, from thenceforth ſhall not be received in any court within this commonwealth, until ſuch time as the judgment given againſt ſuch perſon or perſons ſhall be reverſed.

III. If any juror upon any inqueſt whatſoever ſhall take any thing by himſelf, or another to give his verdict, and ſhall be thereof convicted, ſuch juror ſhall not thereafter be put on any jury, and ſhall pay ten times as much, as he ſhall have taken; whereof one half ſhall go to him, who will ſue for the ſame, and the other half to the commonwealth.

IV. Every embracer who ſhall procure any juror to take gain or profit, ſhall be puniſhed by fine not exceeding two hundred pounds, and impriſonment not exceeding one year.

PETIT-JURIES. See Juries and Venire-Men.

PILOTS.

December the 26th, 1792—But commenced Oct. 1, 1793.

§ I. PAUL Loyal, Edward Cooper, Charles Bayleys, James Latimer, James Cunningham, Francis Ballard, John Pariſh, and Edward Rudd, or any three of them, be, and they are hereby appointed to examine every perſon that ſhall deſire to be admitted a pilot. *(a)*

II. Each examiner before he enters on the duties of his office, ſhall take an oath before ſome court of record truly and impartially to execute the truſt repoſed in him. *(a)*

III. Every perſon applying to be examined, ſhall produce a certificate from the county or corporation court where he reſides, of his honeſty and good behaviour, ſatisfactory proof that he hath ſerved as an apprentice to ſome branch pilot for the term of five years at the leaſt, and that he is an inhabitant of this commonwealth; and ſhall moreover pay down to the examiners the ſum of five dollars. And if upon examination, ſuch perſon

(a) 1786 c 38—1791 c 25.

ſhall appear to be of ſufficient ſkill and ability, the ſaid examiners ſhall thereupon grant ſuch perſon a branch, and thenceforth he ſhall be reputed a lawful pilot. *(a)*

IV. All pilots within this commonwealth ſhall be arranged into three diſtinct claſſes, and diſtinguiſhed by the numbers, firſt claſs, ſecond claſs, third claſs; in order to effect which, in each branch hereafter to be granted, the ſaid examiners ſhall diſtinguiſh to what claſs the pilot obtaining ſuch branch ſhall belong. And if there be any pilots whoſe branches do not diſtinguiſh to which claſs the pilot holding it belongs, ſuch pilot ſhall on or before the firſt day of May next, ſurrender ſuch branch to the examiners, who are hereby empowered and directed to iſſue a new branch to ſuch pilot, without any additional fee or charge, diſtinguiſhing therein to what claſs ſuch pilot ſhall in future belong. And if any pilot holding ſuch branch ſhall not ſurrender the ſame by the time aforeſaid, he ſhall forfeit his branch, and ſhall not be capable of exerciſing the office of a pilot under the ſame. *(b)*

V. Thoſe pilots belonging to the firſt claſs ſhall alone have power to take the charge and pilotage of every veſſel of whatſoever burthen or deſcription. Thoſe belonging to the ſecond claſs, ſhall be confined to the charge and pilotage of ſuch veſſels, whoſe draught of water does not exceed twelve feet. And thoſe belonging to the third claſs, ſhall be confined to the charge and pilotage of veſſels, whoſe draught of water ſhall not exceed nine feet. *(b)*

VI. Every perſon obtaining a branch and afterwards removing into another ſtate, ſhall thereupon be diſqualified and incapable of acting as a pilot; and if any perſon ſo diſqualified ſhall preſume to act, he ſhall be liable to the ſame penalty for each offence, as is impoſed by this act, on ſuch as violate the terms of their branch and reſpective claſs; to be recovered in like manner. *(b)*

VII. When any branch pilot ſhall have an apprentice that in the opinion of the examiners ſhall be qualified to take charge and pilot a veſſel, it ſhall and may be lawful for the examiners to give to ſuch apprentice or apprentices a copy of his maſter's branch, and endorſe thereon the name of the pilot-boat and the port to which ſhe belongs, diſtinguiſhing the ability of the apprentice by claſſes as aforeſaid; after which it ſhall not be lawful for any branch pilot to take from ſuch apprentice any veſſel he may have in charge. *(b)*

VIII. In caſe of the miſconduct or miſbehaviour in any pilot in the exerciſe of his buſineſs, it ſhall be lawful for the examiners to ſuſpend him; and if upon examination before the next ſucceeding county or corporation court, the court ſhall be of opinion that ſuch miſconduct or miſbehaviour is ſufficiently proved, they ſhall cauſe the ſame to be certified to the examiners, and the perſon ſhall thenceforth be altogether diſqualified, and ceaſe to act as a pilot. *(b)*

IX. Every pilot-boat, the owner whereof hath or ſhall obtain a branch in this commonwealth, ſhall have, ten feet below the head of his foreſail, and on each ſide thereof the name of ſuch boat and the port to which ſhe belongs, painted in letters of not leſs than nine inches in length. *(b)*

X. No perſon whatever will be permitted to execute the buſineſs of a pilot, notwithſtanding he may have ſuch branch as aforeſaid, unleſs he, or the company to which he belongs, ſhall keep one ſufficient boat of eighteen feet keel at the leaſt, under the penalty of one hundred and fifty dollars for every veſſel ſuch pilot ſhall undertake to conduct; to be recovered with coſts in any court of record in this commonwealth, by the party ſuing for the ſame, to his or her own uſe; and if any perſon not having ſuch branch, and keeping ſuch boat as aforeſaid, ſhall preſume to take upon himſelf to conduct or pilot any veſſel coming from ſea, to or from any place or places hereafter mentioned, every ſuch perſon ſhall forfeit and pay the ſum of one hundred and fifty dollars; to be recovered with coſts in any court within this commonwealth, by the party ſuing for the ſame; and moreover

(a) 1736 c 38 — 1791 c 25 *(b)* 1786 c 38

ſuch perſon ſhall be liable for all damages occaſioned by his undertaking the pilotage; to be recovered by action at common law in any court within this commonwealth by the party injured. *(a)*

XI. *Provided*, That this act ſhall not be conſtrued to extend to hinder any perſon or perſons from aſſiſting any veſſel in diſtreſs, ſo as he or they ſhall deliver up ſuch veſſel to the pilot, who ſhall come on board and offer to undertake the conducting of her; for which ſuch aſſiſtant ſhall and may demand and receive from the ſaid pilot, half the fees allowed for pilotage by this act. *(a)*

XII. No more than four pilots ſhall be in partnerſhip under the penalty of three hundred dollars each, to be recovered with coſt by any perſon ſuing for the ſame. *(a)*

XIII. Every maſter of a merchant veſſel coming from ſea, ſhall be obliged to receive the firſt pilot who offers below the Horſe-ſhoe, to conduct his veſſel, or ſhall pay him full pilotage to the firſt port, and ſhall continue the ſame pilot to his port of diſcharge; and every pilot cruizing or ſtanding out to ſea, ſhall offer his ſervices firſt to the veſſel neareſt land, or in moſt diſtreſs; and if any pilot not being hindered by ſickneſs, or any other lawful cauſe, ſhall refuſe to go on board any veſſel when required by the maſter, to execute his office, ſuch pilot or pilots in either cauſe, ſhall upon complaint and conviction before the examiners, or any three of them, forfeit to the party injured ſixty dollars, and be liable to be ſuſpended by them for ſuch time as they ſhall think fit. Every veſſel having no pilot on board, and following another that has a pilot, ſhall pay ſuch pilot half fees. *(a)*

XIV. If any pilot ſhall negligently or careleſſly loſe any veſſel under his care, and be thereof convicted by due courſe of law, he ſhall forever after ſuch conviction, be incapable of acting as a pilot in this ſtate, and ſhall be alſo liable to pay all ſuch damages as any perſon or perſons ſhall ſuſtain by ſuch negligence or careleſſneſs, to be recovered in manner before directed. *(a)*

XV. The following and no greater prices ſhall be taken or demanded for pilotage, that is to ſay: On James river for all veſſels coming from ſea, from Cape Henry, or Lynhaven bay, to Hampton road, ſix dollars and ſixty-ſeven cents; and for going out to ſea, five dollars; and for each foot depth of water they draw, from Hampton road, or Sewell's point to Norfolk or Portſmouth, fifty cents per foot; to Sleepy-hole, or Look out, ſixty-one cents per foot; to Pagan creek, fifty cents per foot; to James town, one dollar and twenty-one cents per foot; to Martin's Brandon, one dollar and thirty-three cents per foot; to Flour-de-Hundred, one dollar and forty-two cents per foot; to City-Point or Bermuda-Hundred, one dollar and eighty-three cents per foot; to Four-Mile creek, two dollars and twenty-one cents per foot; to Oſborne's, two dollars and fifty cents per foot; to Warwick, two dollars and eighty-one cents per foot; and to Richmond, three dollars per foot. On York river, coming from ſea, from the Capes, or Lynhaven bay, to York town, ten dollars; and for going to ſea, ſix dollars and ſixty-ſeven cents; from Back river, or Egg-Iſland, to York town, five dollars; from York town to Weſt-point, eighty-one cents per foot; to Cumberland one dollar per foot; to the higheſt landings on Pamunkey river, one dollar and twenty-five cents per foot; to Shepherd's, ninety-two cents per foot; to Meredith's, Moore's, or the higheſt lands on Mattapony, one dollar and nineteen cents per foot. From Cape Henry to any river on Mockjack bay, ten dollars, from the Cape to Urbanna, thirteen dollars and thirty-three cents; and for going from Urbanna to ſea, ten dollars; from Urbanna to Tappahannock, eighty-three cents per foot; to Naylor's hole, eighty-one cents per foot; to Leed's or Micou's, one dollar and twenty-nine cents per foot; to Port Royal, one dollar and eighty-three cents per foot; to Frederickſburg two dollars and twenty-nine cents per foot; from Cape Henry to Pianketank, thirteen dollars and thirty-three cents; from Cape Henry to Smith's point, on South Patowmak, coming from ſea, twenty

(a) 1786 c 38

dollars; and for going out ſixteen dollars and ſixty-ſeven cents; from Smith's point to Coan or Yeocomico, fifty cents per foot; to Machadock, fifty-eight cents per foot; to upper Machadock, eighty-one cents per foot; to Nangomy, one dollar per foot; to Boyd's hole, one dollar and eight cents per foot; to Quantico, one dollar and twenty-one cents per foot; to Occoquan, one dollar and twenty-nine cents per foot; to Piſcattaway, one dollar and fifty-eight cents per foot; to Alexandria, one dollar and eighty-nine cents per foot; to Eaſtern branch, two dollars per foot; and the ſame fees by the foot back again, and from the places aforeſaid to the Capes. And where any maſter of a veſſel ſhall give reaſonable notice to the pilot, he ſhall employ, of the time and place ſuch maſter ſhall appoint for his attendance, and ſuch pilot ſhall attend accordingly, he may demand and take the ſum of one dollar and ſixty-ſeven cents for every day he ſhall be detained by ſuch maſter's not being ready to proceed according to his notice; and if any pilot ſhall demand or exact any greater or other fee, he ſhall forfeit double the ſum ſo demanded; recoverable before two juſtices, one of whom being of the quorum, with coſts by the informer. *(a)*

XVI. And to the end that ſtrangers may not be impoſed on in the rates of pilotage as ſettled by this act, every pilot appointed in purſuance of this act, ſhall be obliged when he is in execution of his office, to carry with him a copy thereof, and when he receives the fees for ſervices performed on board any veſſel, he ſhall produce the ſaid copy to the maſter of the veſſel, to ſhew that he demands no greater fee than is allowed by this act. And if any pilot ſhall neglect or refuſe ſuch copy as aforeſaid, he ſhall forfeit and pay ſixty dollars to any perſon who ſhall ſue for the ſame, to be recovered in any court within this ſtate. *(b)*

XVII. And where any pilot has reaſon to believe the maſter of any veſſel will not pay the pilotage, he may make out his account for the pilotage due him, and deliver the ſame to the collector or other office of the cuſtoms, where the maſter of ſuch veſſel clears out; and the ſaid collector or other officer of the cuſtoms, is hereby authoriſed to demand and receive the ſaid pilotage, before the maſter ſhall be permitted to clear out his veſſel. The collector or other officer of the cuſtoms, ſhall retain two and an half per centum for receiving money and paying the ſame to the pilot. *(b)*

XVIII. The public printer ſhall furniſh the examiners, on demand, with one hundred copies of this act; one of which copies ſigned by three of the ſaid examiners, ſhall be delivered to each pilot.

The repealing clauſe is, as in the appendix No. 6.

December the 24th, 1794.

§ I. EVERY maſter of a veſſel, carrying a pilot to ſea, ſhall pay to ſuch pilot the ſame wages as the mate of ſuch veſſel receives.

II. Every pilot hereafter applying for a branch, ſhall, previous to obtaining the ſame, enter into bond, with ſuch ſecurity as the commiſſioners may approve, in the ſum of eight hundred dollars.

III. No pilot reſiding in another ſtate ſhall be allowed to act as a pilot in any boat belonging to this ſtate; and if any ſuch perſon ſhall preſume to act, he ſhall be liable to the ſame penalty for each offence as is impoſed by law on ſuch as violate the terms of their branch and reſpective claſs, to be recovered in like manner.

IV. Every pilot being requeſted by the owner or maſter of a veſſel, and attending the ſame with his boat, ſhall be allowed and paid the ſum of five dollars for each day he ſhall attend.

V. Every pilot taking charge of any ſhips of war, ſhall receive the following prices in lieu of the pilotage heretofore allowed, that is to ſay: For all ſhips of war above fifty

(a) 1786 c 38—1787 c 86 *(b)* 1786 c 38

guns, from Cape Henry to Hampton Road, ſixteen dollars; for all ſhips under fifty and above twenty guns, twelve dollars; from Cape Henry to York-Town, for all ſhips above fifty guns, twenty dollars; for all ſhips under fifty guns, and above twenty guns, fifteen dollars; from Cape Henry to any river on Mockjack bay, twenty dollars; from the Cape to Smith's point on South Patowmac, forty dollars, and the ſame back again.

VI. Every pilot ſhall be allowed and paid for the pilotage of any veſſel above ſeventy tons, and coming from ſea, one fourth in addition to the ſums allowed by law.

VII. So much of any act or acts as comes within the purview of this act, is hereby repealed.

VIII. *Provided*, That nothing herein expreſſed ſhall affect the rate of pilotage as eſtabliſhed by law from the capes to the different places up the Patowmac river, which ſhall remain as eſtimated in the law paſſed in one thouſand ſeven hundred and ninety two.

December the 22d, 1795—but commenced Feb. 1, 1796.

§ I. WHEREAS by the act, "To reduce into one the ſeveral acts for regulating pilots, and aſcertaining their fees," every maſter of a merchant veſſel, coming from ſea, is obliged to receive the firſt pilot who offers below the Horſe-ſhoe, which by experience has been found not to effect the object of ſupplying veſſels arriving on our coaſts, with pilots:

II. It ſhall be lawful for any pilot belonging to this commonwealth, who firſt meets a veſſel at ſea, to take charge of, and conduct her into Hampton road, York river, or Mobjack bay, and to receive the fees allowed by law for couducting veſſels to the aforeſaid places; from whence any pilot having a branch for the port ſhe is deſtined to, may take charge of, and conduct her thereto.

III. Every pilot ſhall be allowed and paid one fourth in addition to the fees allowed by the act, "To reduce into one the ſeveral acts for regulating pilots, and aſcertaining their fees:" *Provided always*, That coaſting veſſels ſhall not be obliged to take a pilot.

IV. Every pilot who meets a veſſel coming from any place infected with contagious diſeaſes, and directed by proclamation of the governor to perform a quarantine, ſhall, before he boards her, enquire whether any perſon or perſons on board are ſick, and if any ſhould be ſo, that he direct the ſaid veſſel to follow his boat, which ſaid veſſel he is to lie by, and conduct to the neareſt place for veſſels to perform quarantine, and there bring her to anchor; but if no perſon on board ſuch veſſel be ſick, he may conduct her to the port ſhe is bound to: *Provided*, There be a ſuperintendant of quarantine in ſuch port, and proceed immediately to give notice to the ſaid ſuperintendant of the arrival; and the ſaid pilot for his extra trouble therein, ſhall be allowed and paid by the maſter or owner of the veſſel, five dollars over and above the pilotage he is entitled to. And if any pilot ſhall fail to give notice to the ſuperintendant, it ſhall be conſidered a breach of good behaviour, and ſhall moreover forfeit his branch for twelve months: *Provided*, That nothing herein expreſſed ſhall affect the rate of pilotage as eſtabliſhed by law, from the capes to the different places up the Patowmac river, which ſhall remain as eſtimated in the law paſſed in the year one thouſand ſeven hundred and ninety two.

V. All and every act coming within the purview hereof, ſhall be, and the ſame is hereby repealed.

PITCH. See Pork, Beef, Tar, Pitch and Turpentine.

POOR.

December the 26th, 1792—but commenced Oct. 1, 1793.

§ I. THE court of every county within this commonwealth, after the expiration of the period during which the preſent overſeers of the poor for the reſpective counties are to continue in office, under the laſt general election, or before that period, as hereinafter directed, ſhall cauſe their ſaid county to be laid off into convenient diſtricts, not exceeding four in each county, and ſhall direct the ſheriff of the county to cauſe publication to be made, that on ſome day to be appointed by the ſaid court, an election will be held within each diſtrict, to conſiſt of freeholders and houſe-keepers only, for the purpoſe of chooſing three diſcreet and fit perſons, being freeholders of, and reſident within the ſame, who ſhall be called and denominated overſeers of the poor, and ſhall continue and be in office for and during the term of three years; at the expiration whereof, other triennial elections ſhall be made in the ſame manner, but the general elections ſhall in all caſes be computed from the firſt day of April, in the year in which they ſhall be made, notwithſtanding the time of ſervice ſhall thereby be made ſhorter than this act directs. The county court may at any ſeſſion within ſix months before the firſt day of April, which will be in the year in which the general election of overſeers is to be held, enter into the meaſures directed by this act for regulating the ſame, and may fix on ſome convenient day for holding the ſaid elections. (*a*)

II. And the ſaid courts reſpectively, ſhall appoint ſome perſon in each diſtrict, to ſuperintend the election; and if any perſon ſo appointed, ſhall refuſe, or neglect to ſerve, without reaſonable excuſe, he ſhall forfeit and pay for every ſuch refuſal or neglect, the ſum of thirty dollars, to be recovered for the uſe of the poor of the county, in any court of record, by action of debt or information founded on this act, together with coſts. And the perſon who ſhall be appointed to ſuperintend any election, ſhall return the names of the perſon or perſons choſen, to the clerk of the county, who ſhall thereupon iſſue a writ to the ſheriff of the county, commanding him that ten days before the enſuing court-day, he ſhall inform the ſaid perſon or perſons, that he or they hath or have been elected overſeer or overſeers of the poor, and require him or them to appear at the next court-day, and make oath that he or they will truly and faithfully adminiſter the ſaid office. And any perſon being duly elected, who ſhall refuſe, or neglect to ſerve as an overſeer of the poor in the county of which he is an inhabitant, unleſs diſqualified by age or other infirmity, ſuch diſqualification to be judged of by the county court, ſhall forfeit and pay thirty dollars; to be recovered with coſts, by action of debt or information, in any court of record within this commonwealth: *Provided*, That no perſon ſhall be compelled to ſerve more than three years, nor be ſubject to the penalty for refuſing more than once in every term of nine years.

III. Whenſoever it ſhall ſo happen that the perſon appointed to ſuperintend the election of overſeers of the poor in any diſtrict, ſhall fail to attend agreeable to his appointment, or in caſe there be no election, on account of the non-attendance of the electors, or in caſe of the death, refuſal, or diſability of any overſeer or overſeers of the poor, the county court ſhall, and they are hereby required, at their next court, to fill any vacancy that may ſo happen, by appointing perſons to ſerve for the ſame time ſuch perſon or perſons ſhould otherwiſe remain in office.

IV. The overſeers of the poor in every county, although in different diſtricts, ſhall meet annually at ſome convenient place, to be appointed by a majority of them, on the firſt Monday in March; but if the number required by law ſhall not aſſemble on that day, it ſhall be lawful for a ſufficient number to meet and perform the buſineſs on any ſubſequent day in the ſaid month. The overſeers of the poor of the different diſtricts, if there be more than one in the county, ſhall bring with them to ſuch annual meeting, a diſtinct ſtate of the number, names, and ſituation of the poor, and an account of their expenditures in their re-

(*a*) For this act in general, ſee Oct. 1791, c. 20.

ſpective diſtricts; and a majority of the overſeers of the in poor the county ſo meeting, and there being in ſuch majority at leaſt one overſeer of the poor from each diſtrict, ſhall chooſe a preſident, and ſhall be empowered to regulate the neceſſary proviſions to be made for all the poor of the county, excluſive of the poor of any corporate town, for the ſucceeding year, as well as to adjuſt and ſettle the charges of ſupporting and maintaining the poor the preceding year, and to levy and aſſeſs upon all ſuch taxables of their county as are ſubject to county levies, except the inhabitants of any corporate town, and ſettle the amount of the poor rate upon each ſuch taxable in ſpecie; for which purpoſe the clerk of the county ſhall furniſh the ſaidoverſeers with a certified copy of the liſt of all ſuch taxables in the county, exeluſive of thoſe in any corporate town within the ſame if any ſuch there be.

V. The overſeers of each diſtrict ſhall provide for the poor, lame, blind, and other inhabitants of the diſtrict not able to maintain themſelves, and may alſo provide houſes, nurſes, and doctors, in ſuch caſes as they or a majority of them ſhall think neceſſary; the expences of which ſhall be provided for in the ſucceeding levy.

VI. If any poor perſon ſhall ſuppoſe that he or ſhe is entitled to the benefit of the laws for the relief of the poor, and the overſeers of the diſtrict in which he or ſhe reſides, ſhall refuſe to give ſuch perſon the benefit thereof, upon application of ſuch perſon, the county court may, if they think proper, direct the overſeers to receive him or her upon their liſts of poor.

VII. The overſeers of each diſtrict ſhall take effectual meaſures to prevent the poor reſident within the ſame from ſtrolling into another county; and each of the overſeers within a county, may make complaint before a juſtice of the peace, that any poor perſon or poor perſons, is, or are come into their county, and is, or are likely to become chargeable thereto; whereupon it ſhall be lawful for ſuch juſtice, by warrant under his hand, to cauſe ſuch poor perſon to be removed to the county or diſtrict, where he or ſhe was laſt legally ſettled; but if ſuch poor perſon be ſick or diſabled, and cannot be removed without danger of life, the overſeers ſhall provide for his or her maintenance or cure, at the charge of their county, and after recovery, ſhall cauſe him or her to be ſo removed, and the county or diſtrict wherein he or ſhe was laſt legally ſettled, ſhall repay all charges occaſioned by the ſickneſs, maintenance and cure of ſuch poor perſon, and for removing him or her, and alſo all charges and expences, if ſuch perſon ſhall die before removal. And if the overſeers of the county or diſtrict to which ſuch poor perſon belongs, ſhall refuſe to receive and provide for the perſon or perſons ſo removed, every overſeer ſo refuſing, ſhall forfeit and pay ſixty dollars. And if the overſeers of the poor where ſuch poor perſon was laſt legally ſettled, ſhall refuſe to pay and ſatisfy all the charges and expences aforeſaid, the ſame may be recovered from them by ſuit, to be brought in the names of the overſeers by whom ſuch diſburſement may have been made, with the coſts of ſuch ſuit, in any court of record.

VIII. Where any diſpute ſhall ariſe reſpecting the reſidence of any poor perſons, the court of any county adjacent, is authoriſed to take cognizance thereof, and to determine the ſame.

IX. The overſeers of the poor of each diſtrict ſhall monthly make returns to the court of their county of the poor orphans in their diſtrict, and of ſuch children within the ſame, whoſe parents they ſhall judge incapable of ſupporting them, and bringing them up in honeſt courſes; and the ſaid court is hereby authoriſed to direct the ſaid overſeers, or either of them, to bind out ſuch poor orphans and children apprentices to ſuch perſon or perſons as the court ſhall approve of, until the age of twenty-one years, if a boy, or eighteen years, if a girl, on the terms preſcribed and directed by the act, "To reduce into one, th ſeveral acts concerning guardians, orphans, committees, infants, maſters, and apprentices."

X. And the overſeers of the poor ſhall alſo be, and they are hereby empowered and required, at their annual meeting, to appoint a collector of ſuch county poor rate, and to take

from him bond with ſufficient ſecurity, in a ſum double the amount of the ſum to be collected by him, payable to their preſident, for the uſe of the ſaid overſeers of the poor, to be applied towards leſſening the county poor rate, and conditioned for the faithful and diligent collection of the ſaid poor rate, and the payment to the ſeveral perſons reſpectively entitled thereto, of the ſums of money due to them according to the entries and accounts of the ſaid overſeers of the poor, (a copy of which ſhall be delivered to ſuch collector) and alſo for ſettling with the ſaid overſeers of the poor, or their ſucceſſors, at the next annual meeting, a juſt and true account of all his receipts and diſburſements, with proper vouchers, and paying whatever balance ſhall, upon ſuch ſettlement, appear to be in his hands.

XI. The ſaid collector ſhall be allowed the ſame commiſſion for receiving the poor rates as the ſheriff is by law allowed for receiving county levies, and ſhall be ſubject to the ſame rules and regulations, and ſhall have the power of diſtreſs in caſe of non-payment of any perſon chargeable therewith, immediately after the tenth day of April in every year.

XII. It ſhall be the duty of the ſheriff of every county, and of the ſerjeant of any city or borough, if appointed by the overſeers of the poor to collect any poor rate, to collect and account for the ſame, and they ſhall be liable to all things required and impoſed on a collector of ſuch rate by law. Any ſheriff or ſerjeant refuſing to undertake ſuch collection, ſhall forfeit and pay the ſum of one hundred and fifty dollars, to be recovered in manner aforeſaid, for the uſe aforeſaid.

XIII. In caſe of the death of any perſon appointed to collect the poor rates at any time before his collection begins, the overſeers of the poor ſhall and may have power to aſſemble and appoint another collector, of whom they ſhall take bond with ſufficient ſecurity, in the ſame manner as is directed to be taken of a collector appointed at their annual meeting; which collector ſhall have the ſame powers, and be ſubject to the ſame rules and regulations, and be moved againſt in the ſame manner, as other collectors of the poor rates *(a)*

XIV. It ſhall be lawful for ſuch collector to appoint one or more deputies to aſſiſt him in the collection of the poor rate, for whoſe conduct he ſhall be anſwerable, which deputies ſhall have the ſame powers as the collector himſelf; and if ſuch collector ſhall refuſe or neglect to ſettle his accounts with the overſeers of the poor, as herein before directed, or ſhall fail or refuſe to pay them any money which ſhall be in his hands, or in the hands of any of his deputies, or ſhall delay or refuſe to pay off the ſeveral claims to the perſons reſpectively entitled thereto, by order of two or more overſeers, on or before the firſt day of September annually, it may and ſhall be lawful for the court of the county and corporation wherein ſuch collector was appointed, upon the motion of the overſeers of the poor, or of any of the perſons having legal claims, to grant judgment againſt ſuch collector and his ſecurities, for the ſums of money reſpectively due to the ſaid overſeers, or to ſuch legal claimants, with coſts; provided ſuch collector and his ſecurities have ten days previous notice of ſuch motion. And ſuch collector ſhall have the ſame remedy and mode of recovery againſt his deputies, or either of them, and their ſecurities reſpectively, for any ſums of money which, by virtue of this act, ſuch collector may be ſubjected to the payment of, on account of the tranſactions of any of his deputies.

XV. Whenſoever any overſeer or overſeers of the poor have, or may hereafter receive of the collectors of the poor rates, any money, and ſhall fail to pay the ſame to the perſon or perſons entitled thereto, when demanded, ſuch perſon or perſons, their heirs, executors or adminiſtrators, ſhall have the ſame remedy againſt ſuch overſeer or overſeers, their heirs, executors, or adminiſtrators, as he, or they, might have had againſt the collector if the money had remained in his hands. *(b)*

XVI. The overſeers of the poor at their annual meeting, ſhall be, and they are hereby empowered to ſettle the accounts of the former overſeers, and to receive from them any

(a) 1791 c 21 § 5 *(b)* 1791 c 20 § 4.

ſums of money which ſhall be in their hands, and to call upon the collector or collectors heretofore appointed by any veſtry, or by any former overſeers, for a ſettlement of their accounts, and payment for any balances which ſhall be in their hands; and on failure of ſuch payment, they ſhall have the ſame mode of recovery as is directed by this act, for the recovery of money or tobacco in the hands of a collector of their own appointment. Whereſoever any former churchwarden, collector, or overſeer of the poor is dead, or ſhall hereafter die, without ſettling his accounts and paying the balance due from him, his executors and adminiſtrators ſhall be liable to the ſame recovery as the churchwarden, collector, or overſeer himſelf would have been ſubject to in his lifetime: Saving to ſuch executors and adminiſtrators, the benefit of all pleas to which they may be by law entitled.

XVII. The ſaid overſeers of the poor ſhall alſo be, and are hereby empowered, to levy in the manner before directed, ſuch ſums of money as ſhall be neceſſary to pay any arrears which may be due and unpaid by any pariſh or diſtrict to individuals.

XVIII. All the proceedings and accounts of the ovarſeers of the poor ſhall be regularly entered in a book, and ſhall be ſigned by the members preſent at each annual meeting; and for this purpoſe the ſaid overſeers of each county, or a majority of them, ſhall be, and are hereby empowered to appoint a clerk, and at any time upon his miſbehaviour or neglect of duty, to remove him and appoint another in his ſtead, and to make ſuch clerk an allowance not exceeding twenty dollars annually, for his ſervices.

XIX. At the ſaid annual meeting, each of the overſeers of the county who are preſent ſhall have a vote, and if upon any ſuch vote they be equally divided, the queſtion ſhall be decided in favor of that ſide on which the preſident ſhall have voted.

XX. The overſeers of the poor if they demand the ſame, ſhall be allowed one dollar each, to be charged in their account of other expenditures, for every day they ſhall attend the beforementioned annual meeting, and ſhall be ſubject to a penalty of two dollars for every day each of them reſpectively, ſhall fail to attend the ſame, to be computed in both caſes from the firſt day of ſuch annual meeting during the continuance thereof; and their clerk ſhall in like manner be ſubject to the penalty of two dollars for every day he ſhall fail to attend ſuch annual meeting, unleſs ſuch overſeers of the poor, or their clerk reſpectively, ſhall be prevented from attendance by ſickneſs, or other unavoidable accident; to be recovered with coſts by warrant before any juſtice of the peace for the county.

XXI. The courts of the ſeveral counties within this commonwealth, are hereby empowered and required upon application, to exempt from the payment of poor rates all ſuch perſons as from age or infirmities are, or may hereafter be entitled to an exemption from the payment of public taxes; and all thoſe perſons who have been exempted heretofore from the payment of public taxes, are hereby exempted from the payment of the ſaid poor rates.

XXII. The overſeers of each diſtrict ſhall, in the month of October, in each year, ſettle their accounts with the county court, and the money which ſhall remain in their hands, or in the hands of their collector, unappropriated, ſhall be deducted from the rate to be made for the enſuing year. And the overſeers of each diſtrict failing to render their accounts as aforeſaid, ſhall reſpectively be liable to a forfeiture of one hundred dollars for ſuch failure, to be recovered by an action of debt in their reſpective county courts, commenced in the name of the clerk of the ſaid court, (at the expence of the county) to be applied towards leſſening the levy of ſuch county, and the court of the county where the failure ſhall happen, are hereby directed to order the attorney for the commonwealth to inſtitute the ſuit.

XXIII. If any ſingle woman not being a ſervant or ſlave, ſhall be delivered of a baſtard child, which ſhall be chargeable, or likely to become chargeable to any county, and ſhall upon examination before any juſtice of the peace of the county, to be taken in writing upon oath, charge any perſon not being a ſervant, with being the father of ſuch baſtard

child, it ſhall and may be lawful for any juſtice of the peace of the county, wherein the perſon ſo charged ſhall be a reſident or inhabitant, upon application made to him by the overſeers of the poor, or any one of them, of the county wherein ſuch child ſhall be born, to iſſue his warrant for the immediate apprehending the perſon ſo charged as aforeſaid, and for bringing him before ſuch juſtice, or before any other juſtice of the peace of the county wherein he is a reſident or inhabitant, and the juſtice before whom ſuch perſon ſhall be brought, is hereby authoriſed and required to commit the perſon charged as aforeſaid, to the common jail of his county, unleſs he ſhall enter into a recognizance, with ſufficient ſecurity, in the ſum of thirty dollars, upon condition to appear at the next court to be held for ſuch county, and to abide and perform ſuch order or orders as ſhall be made by the ſaid court. And if upon the circumſtances of the caſe, the court ſhall adjudge the perſon ſo charged to be the father of ſuch baſtard child, and that ſuch child is likely to become chargeable to the county, they ſhall and may in their diſcretion take order for keeping ſuch baſtard child, by charging the father with the payment of money for the maintenance of ſuch child, in ſuch manner and in ſuch proportions as they ſhall think meet and convenient, and for ſuch time as ſuch child is likely to become chargeable to the county and no longer. And the father of ſuch child ſhall enter into a recognizance, with ſufficient ſecurity befor the ſaid court, in ſuch ſum as the ſaid court in their diſcretion ſhall think fit, payable to the governor of this commonwealth for the time being, and his ſucceſſors, to obſerve and perform ſuch order or orders of the court as aforeſaid. And if the father charged with the maintenance of ſuch baſtard child as aforeſaid, ſhall make default and not pay the money ſo as aforeſaid charged upon him by order of the ſaid court, to the overſeers of the poor, for the maintenance of ſuch child, the court before whom the recognizance was entered into, ſhall from time to time, upon the motion of the overſeers of the poor, or any one of them, enter up judgment and award execution for the money in ſuch order or orders mentioned, as the ſame ſhall become due againſt the ſaid father and his ſecurities, their executors or adminiſtrators; provided ten days notice be given to the parties againſt whom ſuch motion is made, before the making thereof. And if the father of ſuch child ſhall refuſe to enter into recognizance as aforeſaid, ſuch father ſhall be committed by the ſaid court to the common jail of the county, there to remain without bail or mainprize, until he ſhall enter into ſuch recognizance as aforeſaid, or until he ſhall diſcharge himſelf by taking the oath of an inſolvent debtor, and delivering in a ſchedule of his eſtate in manner directed by the laws for debtors in execution, (and which eſtate ſhall by order of the court be applied towards indemnifying the county) or until the overſeers of the poor ſhall conſent to his diſcharge.

XXIV. *Provided always*, That it ſhall not be lawful for any juſtice or juſtices of the peace, to ſend for any woman whatſoever, before ſhe ſhall be delivered, in order to her being examined concerning her pregnancy, or to compel her to anſwer any queſtions relating thereto before her delivery.

XXV. Every baſtard child may be bound apprentice by the overſeers of the poor of the diſtrict for the time being, wherein ſuch child ſhall be born; every mail until he attains twenty-one years, and every female until ſhe attains eighteen years, and no longer; and the maſter or miſtreſs ſhall be ſubject to the ſame conditions as are preſcribed in the caſe of an apprentice, by the act, intituled, "An act to reduce into one, the ſeveral acts concerning guardians, orphans, committees, infants, maſters, and apprentices."

XXVI. The overſeers of the poor, or any one of them, ſhall be, and are hereby empowered, upon diſcovering any vagrant or vagrants within their reſpective diſtricts, to make information thereof to any juſtice of the peace for the county, and to require a warrant for apprehending ſuch vagrant or vagrants, to be brought before him, or ſome other juſtice of the peace for the ſaid county; and if upon due examination, it ſhall appear to ſuch juſtice, that the perſon or perſons are within the true deſcription of a vagrant, as herein after mentioned, ſuch juſtice ſhall, by warrant under his hand, order ſuch vagrant

or vagrants to be delivered to ſome one of the overſeers of the poor of the diſtrict in which ſuch vagrant or vagrants ſhall have been apprehended, to be employed in labor for any term not exceeding three months, and by the ſaid overſeer of the poor hired out for the beſt wages that can be procured, to be applied to the uſe of the poor. And if any ſuch vagrant or vagrants ſhall during ſuch time of ſervice, runaway from the perſon ſo employing him or them, he, or they ſhall be dealt with in the ſame manner as other runaway ſervants.

XXVII. The corporation courts of the ſeveral corporate towns within this commonwealth, ſhall be, and they are hereby reſpectively empowered and required, to provide for and maintain the poor within the limits of their reſpective towns, ſeparately and diſtinctly from the poor of the county; and any two magiſtrates of any ſuch corporation court, ſhall be, and are hereby empowered by warrant, under their hands, to cauſe to be removed any poor perſon to the laſt place of his or her legal reſidence, who hath not been reſident within the limits of ſuch town for one year laſt paſt before ſuch removal. And in like manner the overſeers of the poor within the county, ſhall be, and they are hereby empowered by warrant under the hands of any two of them, to cauſe to be removed into any corporate town, any poor perſon whoſe reſidence ſhall have been within the limits of ſuch town for one year laſt paſt before ſuch removal; except in both caſes ſuch poor perſons only as have been lodged in any poor-houſe at any time during the laſt two years, who ſhall be reſpectively returned to, and maintained by the county or town, according to their reſpective uſual reſidence in either.

XXVIII. The ſeveral county and corporation courts, ſhall be, and they are hereby reſpectively empowered, whenever they ſhall judge it neceſſary, to provide or build a poor-houſe and work-houſe for the reception of their poor, and for the reformation of vagrants, and to employ a proper perſon or perſons as ſtewards or managers thereof, ſubject to the direction and controul of ſuch corporation court.

XXIX. And the ſaid corporations ſhall be, and they are hereby reſpectively empowered and required, to levy and aſſeſs annually upon their reſpective towns, either by way of poll-tax upon the inhabitants, or by a tax upon houſes or other property within the limits of the town, as they ſhall judge beſt, all charges incurred for the ſupport and maintenance of their poor; and alſo the charges which may be incurred in providing or building a poor-houſe and work-houſe, and in the government and management of the ſame.

XXX. The inhabitants of any ſuch corporate town not having a freehold eſtate in the county without the limits of the town, ſhall be diſabled from voting in any election of the overſeers of the poor in the reſpective counties, nor ſhall any inhabitant of any corporate town be capable of ſerving as an overſeer of the poor in any county.

XXXI. It ſhall and may be lawful for any magiſtrate of any ſuch corporation court, upon diſcovering any vagrant or vagrants within the limits of the town, to iſſue his warrant for apprehending ſuch vagrant or vagrants for examination; and if upon ſuch examination before two magiſtrates of the corporation court it ſhall appear that the perſon or perſons ſo apprehended are within the true deſcription of a vagrant as hereinafter mentioned, the ſaid two magiſtrates ſhall be, and are hereby empowered, by warrant under their hands to commit ſuch vagrant or vagrants to the work-houſe, there to be employed in labor for any term not exceeding three months; and if there be no work-houſe in ſuch town, the ſaid two magiſtrates may, and they are hereby empowered to proceed with ſuch vagrant or vagrants in the ſame manner as the overſeers of the poor are herein before directed to proceed upon any vagrant or vagrants being delivered to them.

XXXII. Any able bodied man, who, not having wherewithal to maintain himſelf, ſhall be found loitering, and ſhall have a wife or children, without means for their ſubſiſtance, whereby they may become burthenſome to their county or town; and any able bodied man without a wife or child, who, not having wherewithal to maintain himſelf, ſhall

wander abroad, or be found loitering without betaking himſelf to ſome honeſt employment, or ſhall go about begging, ſhall be deemed and treated as a vagrant.

XXXIII. So much of the clauſe reſpecting vagrants or idle perſons not having wherewithal to maintain themſelves in the act, intituled, "An act concerning ſeamen," as is contrary to this act, ſhall be, and is hereby repealed.

XXXIV. All the forfeitures and penalties inflicted by this act, ſhall be, one half to the informer, and the other half to the uſe of the overſeers of the poor for the county, to be applied by them towards the ſupport and maintenance of ſuch poor; unleſs where by this act it is otherwiſe directed.

XXXV. And for determining what ſhall be accounted a legal ſettlement within this act, no perſon ſhall be accounted an inhabitant ſo as to have gained a legal ſettlement, until ſuch perſon ſhall have been actually reſident in the county wherein he ſhall claim a legal ſettlement for the ſpace of one whole year.

XXXVI. All fines and forfeitures hereafter to be inflicted under any penal law, which are appropriated to the uſe of the county, towards leſſening the levy for the ſupport of the poor, ſhall be collected, levied, accounted for, and paid by the ſheriffs of the counties to the overſeers of the poor in their ſeveral counties reſpectively, in like manner, and ſubject to the ſame remedy and proceedings againſt them for default, as the collectors appointed by virtue of this act are ſubject to, in default of collecting the levies impoſed by virtue thereof.

XXXVII. The truſtees of any religious ſociety ſhall have full power and authority to proſecute all ſuits heretofore inſtituted, and now depending upon bond or otherwiſe, for any arrearages due to the different pariſhes within this commonwealth.

XXXVIII. All and every act or acts, clauſe or clauſes of acts, containing any thing within the purview of this act, ſhall be, and the ſame are hereby repealed.

XXXIX. *Provided nevertheleſs*, That all rights, remedies, fines, penalties, and forfeitures, incurred or accruing under any former act, ſhall remain in the ſame condition as if this act had not been made. *And provided alſo*, That nothing herein contained ſhall be conſtrued in any manner to alter or repeal one act of general aſſembly, paſſed on the twelfth day of December, one thouſand ſeven hundred and ninety-one, intituled, "An act concerning the poor of the pariſh of Suffolk, in the county of Nanſemond."

December the 24th, 1792.

§ I. EVERY poor perſon who ſhall have cauſe of action againſt any perſon within this commonwealth, ſhall have by the diſcretion of the court before whom he would ſue, writ or writs original, and writs of ſubpœna, according to the nature of his cauſe, nothing paying for the ſame. *(a)*

II. The ſaid court ſhall direct their clerk to iſſue the neceſſary proceſs, ſhall aſſign him counſel learned in the laws, and appoint all other officers requiſite and neceſſary to be had for the ſpeed of the ſaid ſuit to be had and made, who ſhall do their duties without any reward for their counſels, help and buſineſs in the ſame. *(a)*

III. All and every ſuch poor perſon or perſons, being plaintiff or plaintiffs in any ſuch action or ſuit, ſo admitted by the court, ſhall not be compelled to pay any coſts. *(b)*

The repealing clauſe is, in ſubſtance, as in the appendix No. 6.

December the 16th, 1795.

§ I. WHEREAS it hath been repreſented to the general aſſembly, that the overſeers of the poor of the county of Frederick, and the mayor, recorder, and aldermen of the borough of Wincheſter, have erected at their joint expenſe a poor houſe in the ſaid borough, ſufficiently commodious for the reception and accommodation of the poor of

(a) 1786 c 65 *(b)* 23 Hen. VIII. c 15 § 2.

the ſaid county and borough, and it is judged expedient to carry their intention into effect, and to legalize certain other acts which have been productive of ſalutary effects, and have had for their object the good of the ſaid places:

II. The ſaid houſe ſo erected ſhall be, and is hereby eſtabliſhed a houſe for the reception of the poor of the ſaid county and borough: And the ſaid borough of Wincheſter ſhall from henceforth, be added to the ſaid county of Frederick, and form another diſtrict in the ſaid county. The overſeers of the poor in this additional diſtrict, ſhall be choſen in the ſame manner as the law now directs, and ſhall have the ſame power within their diſtrict as they have heretofore had, together with the ſame authority and right in the ſaid poor houſe, and all other matters relative to the providing for the poor in the ſaid county, as any other diſtrict hath.

III. And whereas the ſaid overſeers of the poor for the ſaid county of Frederick, and the mayor, recorder and aldermen of the ſaid borough of Wincheſter, have, in the month of October laſt paſt choſen a manager and phyſician for the ſaid poor houſe, when by law a general meeting is confined to the month of March, and the power of appointing ſuch manager and other neceſſary officers, is by the ſame law confined to the county and corporation courts: The manager, phyſician, and other officers ſo choſen as aforeſaid, ſhall be continued in their ſeveral offices for the time for which they were choſen, under the controul and direction of, and liable to be removed by the overſeers of the poor of the ſaid county of Frederick, who ſhall hereafter have the power of chooſing the ſaid officers at any period they deem neceſſary: *Provided however*, That the mayor, recorder, and the ſenior alderman of the ſaid corporation, ſhall from henceforward be the overſeers of the poor within and for the ſaid diſtrict and town of Wincheſter.

POPULAR ACTIONS. *See Actions Popular.*

PORK, BEEF, TAR, PITCH, AND TURPENTINE.

December the 26th, 1792—but commenced Oct. 1, 1793.

§ I. WHEREAS experience has ſhewn, that the eſtabliſhment of proper regulations for the inſpection of pork, beef, tar, pitch and turpentine, have contributed to the ſale and export of thoſe articles: *(a)*

II. No pork or beef ſhall be exported out of this commonwealth, or tar, pitch, or turpentine expoſed to ſale or exported, until the ſame ſhall be packed or filled in barrels, under the regulations herein after expreſſed; and the juſtices of every county court within this commonwealth, are hereby authoriſed and required, whenever application ſhall be made to any court for that purpoſe, and in the months of Auguſt and September, annually, to nominate and appoint in open court, one or more (not exceeding ſix in one county) fit and able perſon or perſons, reſiding in the ſame county, to inſpect the package, and weigh all pork and beef, and alſo to inſpect the filling of all tar, pitch, and turpentine, packed or filled for ſale or exportation in their reſpective counties; and the ſaid courts may appoint the ſaid perſon or perſons to be inſpectors of pork, beef, tar, pitch, and turpentine, if ſuch perſon appears to them to be duly qualified, or may appoint ſeveral inſpectors, as in their diſcretion ſhall ſeem beſt: And every perſon ſo appointed, ſhall, before he enters upon the execution of that office, make oath before the juſtices of his county court, carefully to view, inſpect, and examine, when required, all pork beef, tar, pitch, and turpentine, packed or filled for ſale or exportation, and to

(a) 1762 c 3.

the beſt of his ſkill and judgment, not to paſs or ſtamp any barrel of pork or beef, or any tar, pitch, or turpentine, that is not good, clean, ſound, merchantable, and of the weight or gauge by this act directed, and faithfully to diſcharge the duty of his office, without favor, affection, or partiality; and ſhall conſtantly attend upon notice, at ſuch time and place as the owner of any of the ſaid commodities ſhall appoint, to inſpect the ſame within his county, but ſhall not inſpect or ſtamp any pork, beef, tar, pitch, or turpentine, imported from Carolina, until the ſame ſhall be brought to ſome public landing; and ſhall provide a ſtamp or ſtamps, with the firſt letter of his county, the letter V, for Virginia, the firſt letter of his own chriſtian name, and his whole ſurname at length, to be ſtamped on each barrel or caſk by him paſſed; and on every barrel of pork the letter L, for large, or the letter S, for ſmall pork; and on the head of every barrel of tar, pitch, or turpentine, ſhall diſtinguiſh whether the ſame be tar, pitch or turpentine; for which he may demand and take, for every barrel of pork or beef by him ſtamped, ſix cents; for every barrel of tar, pitch, or turpentine, four cents, and no more; to be paid down by the owner. And if any officer ſo appointed and ſworn, ſhall neglect his duty, or ſtamp any of the commodities aforeſaid, contrary to this act, he ſhall forfeit and pay four dollars for every barrel of pork or beef, and one dollar for every barrel of tar, pitch, or turpentine, which ſhall be found not duly qualified, or of leſs weight or contents than this act requires; and alſo one dollar for every neglect of his duty; recoverable by the informer, with coſts, before a juſtice of the peace of the county where ſuch offence ſhall be committed. *(a)*

III. Every barrel of pork or beef, packed within this commonwealth for ſale or exportation, or imported here, ſhall contain at leaſt two hundred and four pounds nett, of good, clean, fat, ſound, merchantable meat, well ſalted between each layer, well pickled, nailed and pegged, and no more than two heads of pork in one barrel; and no inſpector ſhall paſs or ſtamp any barrel of pork or beef, that does not appear to ſuch inſpector to be well ſelted and cured before the ſame is packed; and after the ſame has been inſpected, weighed, found merchantable, and paſſed by the inſpector or inſpectors, reſiding in the county where the ſame ſhall be packed or imported, every ſuch barrel ſhall be by him or them ſtamped or branded as aforeſaid, and certificate thereof given to the owner. And every barrel of tar, pitch, and turpentine, ſhall contain thirty-one gallons and a half, at the leaſt; and after the ſame ſhall be inſpected, gauged, found clean, and well and truly made merchantable, and paſſed by the inſpector or inſpectors of the country where the ſame ſhall be inſpected, ſhall be by him or them ſtamped or branded, and a certificate thereof given to the owners as aforeſaid.

IV. All beef or pork expoſed to ſale or barter within this commonwealth in barrels, whether the ſame be packed here or imported from Carolina, or any other place, ſhall contain at leaſt two hundred and four pounds nett meat, allowing only two and a half per centum for ſhrinkage or loſs of weight. And every barrel of tar, pitch, or turpentine, expoſed to ſale or barter, whether made here or imported from any other place, ſhall contain at leaſt thirty-one gallons and a half, and be ſtamped as this act directs; and if any perſon ſhall preſume to ſell, or expoſe to ſale or barter, any barrel of pork, beef, tar, pitch, or turpentine, of leſs weight or gauge, he or ſhe ſhall forfeit and pay to the informer four dollars for every ſuch barrel of pork or beef, and one dollar for every ſuch barrel of tar, pitch, or turpentine, ſold or expoſed to ſale or barter in this commonwealth; recoverable with coſts by the informer, before any juſtice of the county where ſuch offence ſhall be committed, although the penalty ſhall exceed five dollars; and every juſtice of the peace, upon ſuch complaint before him made, and due proof of ſuch offence, ſhall and may by virtue of this act, give judgment for the whole penalty, and award execution thereupon, any law to the contrary thereof notwithſtanding.

V. *Provided nevertheleſs*, That from ſuch judgment for more than five dollars, the

(a) Oct. 1776, c 43.—Oct. 1784, c 87 § 3.—May 1783, c 7, § 1.

party grieved may appeal to the next court to be held for the county wherein ſuch complaint was made, the appellant entering into bond, with ſufficient ſecurity, before the juſtice by whom the judgment ſhall be given, that he will proſecute his appeal with effect, and pay the ſame judgment, and all coſts awarded by the court, if the judgment ſhall be affirmed; and the juſtice of the peace taking ſuch bond, ſhall return the ſame, together withe the whole record of his proceedings in the cauſe, to the ſame court to which ſuch appeal ſhall be, which court ſhall and may receive, hear, and fianlly determine the ſa ne.

VI. Every ſeller or exporter of beef, pork, tar, pitch, or turpentine, packed or filled in this commonwealth, and ſtamped or branded, ſhall make oath before a juſtice of peace, at the time of the delivery of the goods ſold or exported, that the ſeveral barrels by him then ſold or exported, are the ſame that were inſpected and paſſed, and do contain the full quantity, without embezzlement or alteration, to his knowledge; and every perſon taking a falſe oath, and being lawfully convicted thereof, ſhall ſuffer the pains and penalties inflicted on perſons guilty of wilful and corrupt perjury; and moreover ſhall forfeit and pay the ſum of one hundred and fifty dollars; to be recovered by any perſon or perſons that will ſue for the ſame, to his or their own uſe.

VII. Every cooper, and the maſter or owner of every ſervant or ſlave, who ſhall ſet up barrels for pork, beef, tar pitch, or turpentine, ſhall make the ſame in the following manner, to wit: Barrels for pork and beef, ſhall be made with good ſtrong, well ſeaſoned white oak timber, clear of ſap, and not leſs than five-eighths of an inch thick, tight and well hooped, with twelve hoops at leaſt; and in the barrels for turpentine, there ſhall be no ſap pine timber, and they ſhall be hooped two-thirds of their length: Every barrel for pork or beef, to contain from twenty-nine to thirty-one gallons each; and every barrel for tar, pitch, or turpentine, thirty-one gallons and a half at leaſt, with his name, or the name of the maſter of the ſervant or ſlave, at length, ſtamped or branded upon every barrel, under the penalty of forty-two cents for every barrel ſet up for ſale or exportation, and not ſo ſtamped or branded, of leſs contents than aforeſaid. (*a*)

VIII. The ſeveral fines and forfeitures impoſed by this act, (except ſuch as are otherwiſe recoverable) ſhall and may be recovered to the uſe of the informer, where the ſame ſhall not exceed five dollars, before any juſtice of the peace; and for any ſum above five dollars, and not exceeding twenty dollars, by petition in any county court; and for all ſums above twenty dollars, in any court of record within this commonwealth, by action of debt or information, with coſts of ſuit.

The repealing clauſe is, in ſubſtance, the ſame as in the appendix No. 15.

PRESUMPTION. See Death Preſumed.

PRETENSED TITLES.

December the 6th, 1786—but commenced July 1, 1787.

NO perſon ſhall convey or take, or bargain to convey or take, any pretenſed title to any lands or tenements, unleſs the perſon conveying or bargaining to convey, or thoſe under whom he claims, ſhall have been in poſſeſſion of the ſame, or of the reverſion or remainder thereof, one whole year next before; and he who offendeth herein knowingly, ſhall forfeit the whole value of the lands or tenements; the one moiety to the commonwealth, and the other to him who will ſue as well for himſelf as for the common-

(*a*) Oct. 1776 c 43 § 14.

wealth: but any perſon lawfully poſſeſſed of lands or tenements, or of the reverſion or remainder thereof, may nevertheleſs take or bargain to take the pretenſed title of any other perſon, ſo far, and ſo far only, as it may confirm his former eſtate.

PRISON-BREAKERS. See Priſons.

PRISONERS. See Priſons—Eſcapes.

PRISONS.

November the 12th, 1789.

§ I. IT ſhall be the duty of the keeper of the jail in every diſtrict, county, or corporation within this commonwealth, to receive into his cuſtody any priſoner or priſoners, who may be from time to time committed to his charge, under the authority of the United States, and to ſafe keep every ſuch priſoner or priſoners according to the warrant or precept of commitment, until he ſhall be diſcharged by the due courſe of the laws of the United States.

II. The keeper of every jail aforeſaid, ſhall be ſubject to the ſame pains and penalties for any neglect or failure of duty herein, as he would be ſubject to by the laws of this commonwealth, for a like neglect or failure, in the caſe of a priſoner committed under the authority of the ſaid laws.

III. *Provided always*, That the United States do pay or cauſe to be paid for the uſe and keeping of ſuch jails, at the rate of fifty cents per month, for each priſoner, that ſhall, under their authority, be committed thereto, during the time ſuch priſoner ſhall be therein confined, and moreover, do ſupport ſuch of the ſaid priſoners, as ſhall be committed for offences.

December the 13th, 1794.

§ I. WHEREAS it hath been held that by the common law, the offence of breaking a jail or priſon is in all caſes felony:

II. None from henceforth who being in actual jail, breaketh priſon, ſhall have judgment of life or member for breaking priſon only, except the cauſe for which he was taken and impriſoned did require ſuch judgment, if he had been convict thereupon, according to the law of the land.

December the 11th, 1795.

§ I. WHEREAS the marſhal of the diſtrict of Virginia, and his deputies, have conceived themſelves to be authoriſed by virtue of an act of aſſembly, paſſed in the year one thouſand ſeven hundred and eighty-nine, intituled, "An act for the ſafe keeping of priſoners committed under the authority of the United States into any of the jails of this commonwealth," to convey debtors and other perſons arreſted on meſne proceſs, or under execution, to jails at a great diſtance from their families and homes: And whereas it is highly improper that a diſcretion ſo miſchievous and oppreſſive as to be denied to the citizens of this commonwealth, ſhould be exerciſed in favour of the ſubjects of foreign nations:

II. Henceforward no debtor or other perſon arreſted on meſne proceſs, or under execution, by the marſhal or any of his deputies, ſhall be conveyed to any other jail than that of the corporation, county, or ſtate judiciary diſtrict within which ſuch debtor, or other perſon may reſide. So much of the above recited act as comes within the purview of this act, ſhall be, and the ſame is hereby repealed.

PRIVATE ACTS. *See Laws of Virginia.*

PRIVY TOKENS. *See Counterfeit Letters or Privy Tokens.*

PROCEEDINGS IN CIVIL CASES. *See Limitation of Actions, Jeofails and Proceedings in Civil Cases*

PROSECUTIONS ON PENAL STATUTES. *See Criminals, Crimes, Offences, and Profecutions.*

PUBLIC NOTARIES. *See Notaries Public.*

PUBLIC DEBTS.

November the 30th, 1792.

§ I. WHEN any perſon who hath received, or ſhall receive public money from the treaſurer for public uſe, hath not applied, or ſhall not apply the ſaid money accordingly, or hath neglected, or ſhall neglect to account for and repay ſo much thereof as ſhall remain unapplied, upon a motion on behalf of the commonwealth, made to any court of record, notice thereof in writing having been given ten days, or more, to the delinquent, with a ſtate of the matter alledged againſt him, either by delivering copies of ſuch notice and allegation to him, or leaving them at the place of his uſual abode, the ſaid court may give judgment and award execution againſt him and his ſureties, for ſo much as a jury, to be impannelled inſtantly, unleſs good cauſe be ſhewn for deferring it, for trial of an iſſue, if he appear and make it up, or for enquiry of damages, if he appear not, or appearing, refuſe to make up ſuch iſſue, ſhall find to be due from him, on any ſuch account as aforeſaid, with damages to be aſſeſſed by the jury, and coſts. *(a)*

II. When the attorney proſecuting on behalf of the commonwealth, ſhall commence an action for breach of a contract, which hath been, or ſhall be entered into with government, or with an agent thereof, to ſupply the army or navy with proviſion or other articles, at the emanation of the writ, he ſhall file a declaration, with an aſſignment of the breaches, which, with the writ, ſhall be delivered to the officer, to whom that is directed, and ſerved upon the defendant fifteen days or more before the return day; and on ſuch return day, or on the return day of the ſubſequent proceſs, in caſe the preceding be not legally ſerved, if the defendant appear and make up an iſſue, or if he appear not, or appearing, refuſe to make up ſuch iſſue, a jury ſhall be impannelled inſtantly, unleſs good cauſe be ſhewn for deferring it, to try the iſſue, or enquire of damages. And in like caſes, the agents or contractors of the United States of America, may, by the like remedy, on behalf and in the name of the ſaid States, recover money due to them. *(a)*

III. And whereas divers perſons have, and hereafter may enter into contracts with the agents or contractors, for victualling and cloathing the army and navy, and have or may fail, or refuſe to comply therewith: Upon any ſuit being brought by any victualler, agent, or contractor, againſt any perſon or perſons ſo failing or refuſing, the proceedings therein ſhall be the ſame, and the plaintiff ſhall have the ſame remedy and redreſs, as is herein before directed, in ſuits which may be brought on behalf of the commonwealth. *(b)*

(a) 1786 c 61 *(b)* May 1777 c 10 § 5.

IV. It ſhall and may be lawful for the general court to give judgment with coſts, at the motion of the auditor, on ten days previous notice, againſt any perſon or perſons indebted to the commonwealth, by bond or other ſpecialty, whether the ſame be taken in the name of the governor or treaſurer, or any other perſon acting in a public character, for or on behalf of the commonwealth, and alſo to give judgment for all bills of exchange and notes, and for the penalty of all bonds entered into by any perſon or perſons, conditioned for the rendering accounts, or other duties.

V. Where any perſon or perſons have been, are, or may hereafter be indebted to the commonwealth, either in ſpecie or other articles, collected or otherwiſe received, for or on behalf of the commonwealth, and ſuch perſon or perſons, on a ſettlement with the auditor, have obtained a quietus, and where judgment hath been, or may be obtained in favour of the commonwealth, and the amount thereof adjuſted and diſcharged, either before or after the iſſuing of the execution, whereby a quietus may have been or ſhall hereafter be obtained, by the party or parties, and it ſhall afterwards appear that an error or miſtake had been committed to the prejudice of the commonwealth, in the ſettlement of ſuch account, judgment, or execution, in all or any of theſe caſes, it ſhall and may be lawful for the general court, to give judgment on motion, with ten days previous notice, for the amount of ſuch error or miſtake, without intereſt or damages thereupon, the ſame being proved to the ſatisfaction of the court.

VI. And when it ſhall appear after ſettlement, that by error or miſtake any perſon ſhall or may have paid more to the commonwealth than was really due, ſuch perſon ſhall have the ſame remedy by motion with notice, againſt the auditor, as is by this act given to the commonwealth.

VII. If any ſheriff or collector of the public taxes, ſhall fail to account for and pay into the public treaſury, the taxes by him received, in manner and at the time preſcribed by law, every ſuch delinquent ſheriff or collector, ſhall be liable to a judgment againſt him on motion, to be made by the auditor, or other perſon appointed for that purpoſe, at the November general court, or any ſubſequent court after ſuch failure, for the amount of the taxes due, and five per centum damages, together with an intereſt of five per centum per annum, upon the whole amount, until paid, for the uſe of the commonwealth, and thereupon execution ſhall iſſue; provided the party has ten days previous notice of the day on which ſuch motion is to be made. (*a*)

VIII. No petition or petitions ſhall in future be received from any ſheriff or collector of the public revenue, or their ſecurity or ſecurities, or from any perſon or perſons, directly or indirectly in their behalf, unleſs ſuch ſheriff or collector ſhall previous to ſuch application, adverti ſe at the door of his courthouſe, on one court day at leaſt, a liſt of the perſons in arrears for taxes, in his county, together with the balances due from ſuch perſons reſpectively, making oath to the ſame before the court of the county in which he or they reſpectively reſide, which oath ſhall be committed to record and liſt filed in the clerk's office; and the ſaid ſheriff or collector ſhall produce an atteſted copy of ſuch advertiſement, together with copies of the liſt and certificate aforeſaid, ſigned by the clerk of his or their reſpective county courts.

IX. Lands and tenements ſhall and may, by virtue of writs of fieri facias, be taken and ſold in ſatisfaction of all judgments which have been obtained after the ſeventh day of January, one thouſand ſeven hundred and eighty-eight, or may be obtained hereafter, on behalf of the commonwealth, againſt any ſheriff, coroner, or other public collector, or againſt his or their ſecurity or ſecurities: *Provided*, That the ſame ſhall not extend to any ſuch ſecurity or ſecurities, who ſhall have become ſo before the ſaid ſeventh day of January, one thouſand ſeven hundred and eighty-eight. (*b*)

(*a*) 1782 c. 8 § 4. (*b*) 1787 c 40 § 1.

X. Every judgment obtained againſt any ſheriff, coroner, or other public collector, ſhall bind the property of the lands and tenements of ſuch public debtor, from the date thereof. *(a)*

XI. When the goods and chattels taken in execution to ſatisfy a judgment of the commonwealth by virtue of a fieri facias, ſhall not in the opinion of the officer levying the ſame, be ſufficient to ſatisfy the debt with damages and coſts, the ſheriff or other officer, ſhall, at the ſame time, give public notice at the churches and meeting-houſes, if any there be, and courthouſe of his county at the next court day, and ſhall moreover give notice to the owner, if he be in the county, or otherwiſe to his agent, if any ſuch be known, at ſome time appointed in the notice, not leſs than ninety, nor more than ninety-ſix days from the time of levying the execution, that the ſaid lands and tenements will be expoſed to ſale by auction, on the premiſes, or at ſuch other place in the county as the owner ſhall, by writing under his hand delivered to the officer, direct. *(b)*

XII. If the public debtor againſt whom a judgment hath been entered ſubſequent to the ſaid ſeventh day of January, one thouſand ſeven hundred and eighty-eight, or ſhall be hereafter entered, have ſeveral parcels of land which lie in one and the ſame county, he or his agent may by writing under his hand at any time before the day of ſale, require the ſheriff or officer to whom a writ of fieri facias upon the judgment ſhall be directed, to make the debt or damages and coſts of ſuch of the ſaid parcels of land as the owner or his agent ſhall think proper; and if the parcels lie in different counties, the clerk ſhall and may at the like requeſt in writing, direct the fieri facias to the ſheriff or officer of any county which the party or his agens, making oath or ſolemn affirmation that he hath lands there, ſhall particularly mention, at any time before the writ ſhall be delivered to the officer. And if the debt, damages, and coſts be made of any other parcel of land, or of lands lying in any other county than that mentioned in ſuch written requiſition, the ſale of ſuch other parcel of the land in ſuch other county ſhall be void. *(c)*

XIII. If the owner of the land before or at the day of the ſale, ſhall not make payment of the debt due to the public, the ſheriff or officer ſhall proceed to ſell the ſaid lands and tenements, or ſuch eſtate and intereſt as the party convict ſhall have therein, or ſo much thereof as will be ſufficient, laid off in one entire parcel, if it may be done, in ſuch place and manner as he or his agent, if he think proper, ſhall direct, for ready money, or other property, as the demand may be, and the coſts: But if the eſtate cannot be ſold for three-fourths of its value, in the opinion of the valuers of the county, or in the opinion of ſuch other perſon as may be by law directed, he ſhall ſell the ſame upon three months credit, taking bond of the purchaſers, with ſufficient ſurety or ſureties for the payment, to the chief magiſtrate of this commonwealth for the time being. *(c)*

XIV. Every bond thus taken, ſhall mention on what occaſion the ſame was taken, and ſhall by the ſheriff or officer be immediately returned to the clerk's office from whence it iſſued, there ſafely to be kept, and when due, execution thereon may be awarded in the ſame manner, and on the ſame conditions that executions are now awarded on replevy bonds and ſhall in like manner be indorſed by the clerk, "that no ſecurity is to be taken." *(c)*

XV. In all ſales of lands by virtue of an execution, the ſheriff or other officer ſhall convey the ſame to the purchaſer at his coſts, by deed in writing, ſealed, and recorded as the laws direct for other conveyances of land: Which deed ſhall recite the execution, purchaſe and conſideration, and ſhall be effectual for paſſing to the purchaſer all the eſtate and intereſt which the debtor had, and might lawfully part with in the lands. *Provided neverthelcſs*, that if any ſheriff or other officer who may have made ſale of lands by virtue of any execution to him directed, on the part of the commonwealth, ſhould die, or remove out of the ſtate, before deeds made in conformity to ſuch ſale or ſales, then it ſhall and may

(a) 1787 c 40 § 2. *(b)* 1787 c 40 § 3 *(c)* 1787 c 40 § 4.

be lawful for the next ſucceeding ſheriff or other officer, to convey the ſame to the purchaſer or purchaſers thereof, in as full and ample manner as his predeceſſor in office might or ſhould have done. (*a*)

XVI. If the lands and tenements, goods and chattels, of any ſheriff, coroner, or other public collector, are inſufficient to ſatisfy the debt, damages, and coſts, due to the public, judgment ſhall be obtained againſt his ſecurity or ſecurities in the ſame ſummary way that judgment may by law be obtained againſt his or their principal, and the lands and tenements, goods and chattels of ſuch ſecurity or ſecurities, except as before excepted, ſhall be taken in execution to ſatisfy the balance of ſuch debt, damages, and coſts, in the ſame manner as the lands and tenements, goods and chattels of his or their principal, may be taken and ſold agreeable to this act. (*b*)

XVII. In every writ of fieri facias upon judgments which have been obtained ſubſequent to the ſaid ſeventh day of January, one thouſand ſeven hundred and eighty-eight, or hereafter to be obtained by the commonwealth, againſt any ſheriff, coroner, or other public collector, or the ſecurities of them, or either of them, after the words, "We command you that of the" the clerk from whoſe office ſuch writ ſhall iſſue, ſhall inſert the words "lands and tenements," and conform the ſubſequent part of ſuch writ thereto. (*c*)

XVIII. Where the property of any ſheriff, coroner, or other public collector, or their ſecurities, has been taken in execution to ſatisfy a judgment obtained by the commonwealth, and the ſame was not ſold for want of buyers, and return thereon hath been made to that effect, or where the property of any ſheriff, coroner, or other public collector, or their ſecurities, have been expoſed to ſale by virtue of any writ of venditioni exponas, to ſatisfy a judgment obtained by the commonwealth, and could not be ſold for want of buyers, and return hath been made to that effect, in either of the above caſes, it ſhall and may be lawful for the executive, and they are hereby authoriſed and required to direct the officer, to whom any ſubſequent proceſs in either of the above caſes ought to iſſue, provided ſuch property cannot be ſold agreeabble to the directions of ſuch ſubſequent proceſs, to cauſe ſuch property to be removed to ſuch place in any adjacent county, as the executive may direct, and there to be ſold for money or government ſecurities, on ſuch terms, and in ſuch proportions as they ſhall judge expedient: *Provided*, that if ſuch property will not ſell for three-fourths of its value, in the judgment of the valuers of the county, or in the judgment of ſuch other perſon as may be by law directed, where the ſale ſhall be made, the ſheriff or other officer ſhall ſell the ſame on three months credit, and ſhall take bonds in the ſame manner, and the like proceedings ſhall be had thereon, as is herein before directed, in caſes of bonds taken on the ſale of lands and tenements ſold by virtue of this act. (*d*)

XIX. In every caſe where any writ of fieri facias, or venditioni exponas iſſues againſt the eſtate of a ſheriff on behalf of the commonwealth, if by law the ſame ought to be directed to a ſheriff, ſuch writ or writs ſhall be executed by the high ſheriff. (*e*)

XX. In like manner where any writ of fieri facias or venditioni exponas ſhall hereafter iſſue at the inſtance of the commonwealth, againſt the eſtate of any ſheriff, coroner, or other public collector, or their ſecurities, and the goods and chattels of ſuch debtor cannot be ſold for want of buyers, the executive ſhall direct the property to be removed and ſold as above directed, in caſes of ſuch ſheriffs, coroners, public collectors, and ſecurities, whoſe property has not been ſold for want of buyers. (*e*)

XXI. It ſhall be the duty of the auditor forthwith to acquaint the executive when their interpoſition is, or hereafter may become neceſſary, to the carrying this act into effect. (*f*)

XXII. The auditor, immediately on the return of any proceſs which he ſhall ſuſpect

(*a*) 1787 c 40 § 5 (*b*) 1787 c 40 § 6 (*c*) 1787 c 40 § 7 (*d*) 1787 c 40 § 8 (*e*) 1787 c 40 § 9 (*f*) 1787 c 40 § 10

was fraudulently executed, ſhall give notice thereof to the executive, whoſe duty it ſhall be to direct the attorney of the commonwealth for ſuch diſtrict, county, or corporation, to file an information thereupon, in which like proceedings ſhall be had as in other caſes of information; and if it ſhall appear that ſuch ſale was fraudulently made, the property of any thing thus fraudulently ſold, ſhall not be changed, but remain ſubject to the demand of the commonwealth, and the officer who executed ſuch proceſs, if he be concerned in ſuch fraud, ſhall ever after be rendered incapable of being appointed to any office of honor or profit. *(a)*

XXIII. And whereas ſheriffs and other public collectors in ſome inſtances have proceeded to collect the public revenue, without having entered into bond with ſecurity, for the faithful performance of that duty, which cannot be recovered from ſuch collectors, except by the tedious proceſs of law: For remedy thereof, every ſheriff, or other public collector, who may have attempted the collecton of any of the different ſpecies of taxes in any county or corporation in this ſtate, ſhall be liable to a judgment and execution for the ſame ſum, and in the ſame ſummary way, as if ſuch ſheriff or other public collector had actually given ſecurity agreeable to law. *(b)*

XXIV. In all executions founded upon judgments, which were obtained prior to the ſeventh day of January, one thouſand ſeven hundred and eighty-eight, where it may be neceſſary to remove any property by virtue of this act, the extra expences attending ſuch proceſs, ſhall be diſcharged by the commonwealth; but in all executions upon judgments obtained after the day laſt mentioned, or hereafter to be obtained ſuch additional expences ſhall be paid by the owner of the property, and taxed in the coſts of the proſecution. *(c)*

XXV. All ſheriffs, coroners, or other perſons authoriſed to levy executions of any kind on behalf of the commonwealth, and failing ſo to do according to law, or withholding any ſuch execution for any longer time than one month after the return day, ſhall forfeit and pay to the commonwealth, at the rate of fifteen per centum per annum, on the amount of ſuch execution, to be computed from the return day thereof, until ſuch execution be actually returned. *(d)*

XXVI. And any officer as aforeſaid, who ſhall make a falſe return on any ſuch execution, ſhall forfeit and pay twenty-five per centum on the amount of ſuch execution. *(e)*

XXVII. And in caſe any ſheriff, coroner, or other officer, ſhall levy on behalf of the commonwealth, any execution, and ſhall return the ſame as ſatisfied, paid, or diſcharged, or in any other words, form or manner, which ſhall entitle the debtor to a credit therefor, either wholly or in part, and ſhall fail to pay the amount of ſuch credit within one month after the return day of ſuch execution, or other proceſs, then ſuch ſheriff or other officer ſo failing, ſhall forfeit and pay to the commonwealth, double the damages, and double the intereſt, to which the debtor, againſt whom the ſaid execution may have iſſued, was ſubject, to commence and accrue on the return day of ſuch execution, and to continue until payment be made into the treaſury; and in all ſuch caſes where no damages are expreſſed, but intereſt only is required by the ſaid execution from the debtor, the ſheriff or other officer failing to pay to the treaſurer within one month after the return day of ſuch execution, ſhall forfeit and pay at and after the rate of twenty per centum per annum on the amount. *(f)*

XXVIII. Upon all executions of fieri facias already iſſued, or hereafter to be iſſued, and which ſhall have been, or ſhall be levied, but not diſcharged, whereby ſubſequent proceſs is neceſſary to be iſſued, every ſuch ſubſequent proceſs, may at the diſcretion of the auditor be directed to ſuch perſon, ſpecially by name as was high ſheriff at the time of levying the former execution, who ſhall proceed in the execution of ſuch ſubſequent proceſs,

(a) 1787 c 40 § 11 *(b)* 1787 c 40 § 12 *(c)* 1787 c 40 § 13 *(d)* 1789 c 42 § 1 *(e)* 1789 c 42 § 2 *(f)* 1789 c 42 § 3.

until the debt be fully paid, notwithſtanding ſuch perſon's time as ſheriff of the county be expired. *(a)*

XXIX. And all and every deputy ſheriff levying any execution for, or on behalf of the commonwealth, ſhall, on failing to ſign in addition to his own name, the name of the high ſheriff under whom he acts, be ſubject to the ſame fine as is hereby inflicted for withholding an execution, to continue until ſuch return be amended by the addition of the high ſheriff's name, or the amount of ſuch execution be actually paid; and in caſe of inability in any deputy ſheriff to pay ſuch fine, the ſame may be recovered of the high ſheriff, which he may hereafter recover of ſuch deputy, by motion in the court of his county, on giving ten days previous notice to the deputy ſo failing. *(b)*

XXX. No compliance with ſuch duties as are by this act preſcribed, after the reſpective periods aſſigned for performance, and notice given of an intended motion as herein after is mentioned, ſhall bar a recovery of the fines and forfeitures. *(c)*

XXXI. In all caſes of fieri facias not levied, by reaſon that the effects in a public debtor's poſſeſſion cannot be taken in conſequence of any previous bona fide execution, mortgage, deed of truſt, or any other conveyance or incumbrance whatſoever, the ſheriff holding ſuch execution, ſhall ſet forth in his return fully and explicitly the nature of the conveyance or incumbrance, under which a claim is ſet up, and in what court the ſame be recorded, and if by virtue of executions, the names of the perſons at whoſe inſtance ſuch executions iſſued, the amount of each, and from what court they were iſſued, in order that the auditor may inſtitute ſuch proceedings, as the attorney general may direct againſt all perſons concerned, in order to have their claims or demands fully aſcertained; and all courts wherein ſuch proceedings ſhall or may be inſtituted, are hereby authoriſed to give the preference in hearing all ſuch caſes before others of any kind or nature ſoever, and to quicken the ſame by ſuch rules as to them ſhall ſeem expedient. *(d)*

XXXII. If any perſon ſhall attempt to ſtop, interrupt, or injure the ſale of the eſtate of any public debtor, taken by virtue of an execution, by any fraudulent execution, conveyance or incumbrance whatſoever, he ſhall forfeit to the commonwealth the ſum of three hundred dollars.

XXXIII. All fines and forfeitures inflicted by this act, ſhall be recovered by the Auditor on behalf of the commonwealth, by motion in the general court with coſts, on giving ten days previous notice. *Provided always*, that upon a proſecution inſtituted for any fine or forfeiture inflicted by this act, a jury ſhall be impannelled to try the facts, if it ſhall be deſired by the party proſecuted.

XXXIV. The defendant or parties againſt whom judgment may have been obtained for any ſuch fine or forfeiture, may, on application to the governor and council, obtain a remiſſion either of the whole or part, as to the governor, with advice of council, may ſeem reaſonable and proper.

The repealing clauſe is, the ſame in ſubſtance as in appendix No. 15.

December the 25th, 1792.

§ I. WHENSOEVER any perſon or perſons heretofore have, or hereafter may receive, any ſum or ſums of money or tobacco, or any kind of public ſecurities whatſoever, which of right do or ſhall appertain to this commonwealth, and ſuch perſon or perſons ſhall refuſe or neglect to pay ſuch money, tobacco, or public ſecurities, or any part thereof, to ſuch officer of this commonwealth, to whom by law the ſame ought to be paid; then and in that caſe it ſhall and may be lawful for the governor, with the advice of the council of ſtate, to inſtitute an action upon the caſe againſt ſuch perſon or perſons,

(a) 1789 c 42 § 4 *(b)* 1789 c 42 § 5 *(c)* 1789 c 42 § 6 *(d)* 1789 c 42 § 7

their executors or adminiſtrators, for money, tobacco, or public ſecurities, (as the caſe may be) had and received to the uſe of the commonwealth; which action ſhall be inſtituted in the name of the governor for the time being, and his ſucceſſors, for the uſe of the commonwealth, and ſhall not abate by the death, reſignation, or removal from office of the governor, in whoſe name it ſhall be brought.

II. Where ſuch ſuit ſhall be brought againſt any public officer, ſuch officer ſhall not be permitted to plead any official bond, or any condition or covenant therein, either in abatement or bar thereof.

PUBLIC REVENUE. *See Taxes—See alſo Appropriation of Public Revenue.*

QUARANTINE.

December the 26th, 1792—but commenced Oct. 1, 1793.

§§ I. WHEREAS it is neceſſary to compel veſſels arriving in this country from foreign parts of the world, to perform quarantine in certain caſes:

II. Veſſels, perſons, and merchandiſe, coming or brought into any place within this commonwealth, from any other part of the world, whence the governor, with advice of his council, ſhall judge it probable that any plague, or other infectious diſeaſe, may be brought, ſhall be obliged to make their quarantine in ſuch place, during ſuch time, and in ſuch manner as ſhall be directed by the governor, by his order in council, notified by proclamation, to be publiſhed in the Virginia gazette: And until they ſhall be diſcharged from the quarantine, no ſuch perſons or merchandiſe, ſhall come or be brought on ſhore, or go or be put on board of any other veſſel in the commonwealth, but in ſuch manner, in ſuch caſes, and by ſuch licenſe, as ſhall be permitted by the order; and the veſſels and perſons receiving goods out of her, ſhall be ſubject to the orders concerning quarantine, and for preventing infection, which ſhall be made by the governor and council, and notified as aforeſaid. *(a)*

III. The maſter of a veſſel coming from ſea, on board of which there ſhall be a perſon infected with the plague or other peſtilential diſeaſe, ſhall immediately make the caſe known to ſuch perſon as ſhall be appointed for the purpoſe, in the manner as is hereinafter directed, who ſhall give intelligence thereof with all ſpeed, to the governor, that meaſures may be taken for ſupport of the crew, and precautions uſed to prevent the ſpreading of the infection; and the maſter ſhall not enter into any port, but ſhall remain in ſome open road, and ſhall avoid and hinder all intercourſe with other veſſels or perſons, nor ſhall any of the paſſengers, or crew go on ſhore, until the order of the governor and council ſhall be received by the maſter. Whoſoever ſhall offend againſt this act, in either or any of the aforementioned inſtances, ſhall be amerced the ſum of fifteen hundred dollars. *(a)*

IV. When a place ſhall be infected with the plague or other peſtilential diſeaſe, or when the governor, with the advice of council, ſhall have notified by proclamation, publiſhed in the Virginia gazette, that it is judged probable the plague or other peſtilential diſeaſe, may be brought from any place, if a veſſel from ſuch place ſhall be coming into a port of the commonwealth, the perſon who ſhall be authoriſed to ſee quarantine performed, ſhall go off, or cauſe ſome other to go off to the veſſel, and at a convenient diſtance, require the commander to declare what is his name, at what place the cargo was taken on board, at what places the veſſel touched in her paſſage, whether any of thoſe places were infected with the

(a) Oct. 1783 c 19.

plague, or any other peſtilential diſeaſe, how long the veſſel had been in her paſſage, how many perſons were on board when ſhe ſet ſail, whether any on board during the voyage had been infected with the plague or other peſtilential diſeaſe, and who they are, how many died in the voyage, and of what diſtemper, what veſſels he or any of his company with his privity, went on board of, and whether any of their company had been on board of his veſſel, in their voyage, and to what places thoſe veſſels belonged, and what are the contents of his lading. *(a)*

V. The maſter of a veſſel coming from a place infected with the plague or other peſtilential diſeaſe, or having any perſon on board ſo infected, who ſhall conceal it, or who ſhall not give true anſwers to the queſtions ſo to be propounded to him, ſhall be amerced the ſum of fifteen hundred dollars. *(a)*

VI. The maſter of a veſſel ordered to perform quarantine, when he ſhall be required, after his arrival at the place appointed, ſhall deliver to the officer authoriſed to ſee it performed there, the bills of health and manifeſts he ſhall have received during the voyage, with his log-book and journal; and refuſing or neglecting ſo to do, or to repair in convenient time after notice to the place appointed, or eſcaping from thence before quarantine performed, ſhall be amerced the ſum of fifteen hundred dollars. *(a)*

VII. Perſons ordered to perform quarantine, if they ſhall eſcape, may be compelled to return, or if they ſhall attempt to eſcape, may be detained by the perſons who ſhall be authoriſed to ſee the quarantine performed, and who may employ force, and call for the aſſiſtance of others, if it be neceſſary for this purpoſe. *(a)*

VIII. Any perſon going on board a veſſel, or into a place under quarantine, without licenſe from the ſuperintendant thereof, may be compelled to remain there, in the ſame manner as he might have been if he had been one of the crew of the veſſel. The perſon thus appointed to execute an order concerning quarantine, guilty of wilful breach or neglect of duty, ſhall be amerced the ſum of three thouſand dollars. And any perſon embezzling, or wilfully damaging goods performing quarantine under his direction, ſhall be liable to the party injured for treble the value of the damages ſuſtained thereby. The veſſel, perſons, and goods, after quarantine performed, certificate thereof, and that they are free from infection, being given by the ſuperintendant, ſhall be no further reſtrained by virtue of this act. *(a)*

IX. A perſon authoriſed to ſee quarantine performed, or a watchman upon any veſſel, place, or goods, under quarantine, deſerting his duty, or willingly permitting a perſon, veſſel, or goods, to depart, or be conveyed away from the place where the quarantine ought to be performed, without a lawful licenſe, or a perſon empowered to give a certificate of the performance of quarantine, knowingly giving a falſe certificate, ſhall be amerced the ſum of three hundred dollars. *(a)*

X. The forfeitures inflicted by this act, ſhall be, one moiety to the uſe of the commonwealth, the other moiety to any perſon who ſhall ſue for the ſame; and ſhall be recovered by action of debt, in which action the defendant ſhall be ruled to give ſpecial bail.

XI. The governor, with the advice of council, ſhall be, and he is hereby authoriſed to appoint, and from time to time to fill up ſuch vacancies as may take place in each of the ports that have been, or hereafter may be appointed by the congreſs of the United States, as ports of entry and delivery, ſome ſuitable perſon to diſcharge the duties above deſignated, and to make ſuch compenſation as in their judgment may be ſufficient, to each of the ſaid perſons, for any ſervices they may occaſionally perform in the ſame.

XII. The governor in council, ſhall direct the auditor to iſſue his warrant on the treaſurer for ſuch ſums of money as may be neceſſary for the ſupport of the perſons performing quarantine, and thoſe appointed to ſee it performed, who is directed to pay the ſame out

(a) Oct. 1783 c 19.

of the public money in his hands, appropriated to defray the contingent charges of government, and ſhall be repaid by the maſter or owner of the veſſel, after quarantine performed. *(a)*

The repealing clauſe is as in the appendix No. 4.

December the 5th, 1793.

§ I. WHEREAS by the act, intituled, "An act reducing into one, the ſeveral acts to oblige veſſels coming from foreign parts to perform quarantine,"* no proviſion is made to compel perſons coming into this commonwealth by land, from places infected with contagious diſeaſes, to perform quarantine: For remedy whereof,

II. The governor, with advice of council, ſhall appoint perſons to ſuperintend the performance of quarantine, in ſuch places, and from time to time, as he ſhall judge neceſſary; the perſon ſo appointed, ſhall examine all perſons coming into this commonwealth by land, from places infected with any contagious diſeaſes, and compel them to perform a quarantine of ſo many days, and under ſuch regulations, as ſhall be directed and preſcribed by the governor, with advice of council, for the preſervation of the health of the citizens of this commonwealth.

III. And whereas by the ſaid act, the maſter or owner of a veſſel is compelled to defray the expences attending their veſſel, after quarantine is perfomed, which in ſome caſes is unreaſonable; the governor, with advice of council, be, and is hereby empowered to exempt the owner from the payment of ſuch expences, whenever he ſhall think it right and juſt ſo to do.

IV. The veſſels which have lately performed quarantine, be, and they are hereby releaſed from the payment of the charges which accrued thereon.

December the 19th, 1795.

§ I. WHEREAS by the exiſting laws of this commonwealth, to "oblige veſſels coming from foreign parts to perform quarantine," the executive are not authoriſed to deſignate more than one place for that purpoſe, which has been found by experience to be attended with much inconvenience and delay:

II. In addition to the place pointed out by the governor, at the mouth of Elizabeth river, it ſhall be lawful for him, and he is hereby empowered, with the advice of council, to eſtabliſh ſome other place in the river Patowmac, as near the head of the tide water, as ſhall be conſidered convenient and ſafe, and at any other place or places along the ſea board of this commonwealth, as ſhall be deemed neceſſary and expedient; and that he ſhall cauſe to be erected at the public expence at all ſuch places ſo pointed out as proper for the performance of quarantine, ſufficient buildings for the ſafe keeping of the goods or merchandiſe which it may be neceſſary to land from on board any veſſel lying at anchor in obedience to the above recited act of the legiſlature, as well as for the accommodation of the perſons ſuperintending and performing quarantine: And he is hereby empowered to contract in behalf of the commonwealth for a ſufficient quantity of land at every place deſignated as above, for the aforeſaid purpoſe; and in caſe of any proprietors refuſing to ſell upon reaſonable terms the quantity required, the governor, with the advice of council, ſhall forthwith cauſe to be condemned and appropriated, by a writ of ad quod damnum, a quantity not exceeding two acres, the value whereof to be paid for out of the public treaſury.

III. And whereas it is doubtful whether any ſuperintendant of quarantine, hath a right to enforce the laws for the performance thereof, until a ſpecific proclamation ſhall have iſſued from the governor, which, under a negative conſtruction by cauſing delay, might

(a) Oct. 1783 c 19. * The act referred to, is the preceding act.

hazard the introduction of a contagious diſtemper; the ſuperintendant of quarantine for the time being for any port within this commonwealth, upon intelligence to be relied on, of a peſtilential diſeaſe prevailing in any place, between which and the port for which he is ſuperintendant, there may be occaſional intercouſe, ſhall have power with the conſent of the corporate or other local authority, to enforce without further delay towards veſſels or perſons coming from ſuch infected place, the laws, for the performance of quarantine, until the executive ſhall have ſignified their aſſent or diſſent to the proceeding; and upon all ſuch occaſions he ſhall immediately tranſmit to the governor the nature and extent of the intelligence which in his eſtimation juſtified the meaſure, in order that the ſenſe of the executive may be had thereon as early as poſſible.

IV. And whereas no legal meaſures exiſt for preventing the propagation of peſtilential diſeaſes, when any ſuch ſhall have unhappily obtained a reception among us, if any place within this commonwealth, ſhall become infected with a malignant diſtemper, which ſhall be of a nature manifeſtly contagious, ſuch place ſhall be co-extenſively ſubject to the operation of the laws for the performance of quarantine with any foreign place.

RAPE.

December the 26th, 1792—but commenced Oct. 1, 1793.

§ I. IF any man, from and after the commencement of this act, do raviſh a woman married, maid, or other, where ſhe did not conſent before nor after; or ſhall raviſh a woman married, maid, or other, with force, although ſhe conſent after, the perſon ſo offending, ſhall be adjudged a felon, and ſhall ſuffer death as in caſe of felony, without the benefit of clergy, *(a)*

II. If any perſon ſhall unlawfully and carnally know and abuſe any woman child under the age of ten years, every ſuch unlawful and carnal knowledge ſhall be felony, and the offender being duly convicted thereof, ſhall ſuffer as a felon, without benefit of clergy.

The repealing clauſe is, in ſubſtance, as in the appendix No. 18.

RECEIVERS OF STOLEN GOODS. *See Arſon; Benefit of Clergy, Acceſſories to Felonies, and Receivers of Stolen Goods.*

RECORDS.

December the 17th, 1787.

§ I. WHEREAS the records of ſeveral county courts within this commonwealth, and other papers of conſequence, have been, or may be deſtroyed by fraud, accident, or otherwiſe, to the great injury of the citizens of this commonwealth: For relief, therefore, of ſuch perſons whoſe eſtates, titles, or intereſts have been, or may be affected thereby;

II. The courts of the counties where any ſuch loſſes may have accrued, or ſhall hereafter accrue, when any original deeds, with an indorſement of the acknowledgment or proof thereof, and order for recording the ſame, atteſted by the clerk of the court, or the copies of any deeds with the indorſement ſo atteſted, or any wills, with the indorſement of the proof and the order for recording the ſame ſo atteſted, or of any judgment, decree,

(a) St. 13 Edw. I. c 34—18 Eliz. c 7,

or order of court, in like manner atteſted, or of any inventory or other document before admitted to record in ſuch court, and of all bonds, bills, notes, and all other papers neceſſarily filed in the office of ſuch county, (the original of the ſame being loſt, or otherwiſe deſtroyed) ſhall be produced to them, ſhall order the clerk again to record all ſuch original deeds, copies of deeds, or wills, with the ſaid indorſements reſpectively; and all ſuch copies of judgments, decrees, and orders of the court of their county, or of inventories or other documents; and the ſaid clerk, when he ſhall have recorded any thing in purſuance of this act, ſhall indorſe on the ſame that the original had been loſt or deſtroyed, and ſhall make an entry to the ſame effect on the record with the thing recorded, which ſhall have the ſame operation and effect in law to all intents and purpoſes as the original record would have had.

III. The clerks of the ſeveral counties ſhall do and perform the ſervices in this act mentioned, for the ſame fees that are allowed by law in other caſes, for a copy of any thing herein beforementioned; and in like manner, ſhall take no other or greater fee for recording any deed which hath been already recorded, or ſhall be made only by occaſion of the misfortune aforeſaid, for ſettling the right or title of any perſon or perſons whatſoever, to lands and tenements, ſlaves, or goods and chattels, than in other caſes is, or ſhall be allowed by law for the copy of any ſuch deed; any law, uſage, or cuſtom, to the contrary notwithſtanding.

IV. It ſhall and may be lawful for the governor, with the advice of council, to iſſue one or more commiſſions, as the caſe may require, under the ſeal of the commonwealth, to nine able and diſcreet perſons directed, giving them, or any of them full power and authority to meet at ſome convenient place, by them to be appointed, and to adjourn from time to time as they ſhall think fit, and to ſummon, hear, and examine all witneſſes, at the inſtance of any perſon, touching the premiſes, and to take their depoſitions in writing, and to return the ſame with ſuch commiſſion or commiſſions, to the executive; which depoſitions ſhall be by them laid before the general aſſembly at the next ſeſſion, to the end that they may be enabled to grant ſuch effectual relief to the ſufferers by the loſs of the ſaid records as to them ſhall ſeem juſt and reaſonable. And the ſaid commiſſioners ſhall have power to appoint ſome perſon ſkilled in clerkſhip, to attend them for keeping a journal of their proceedings, and drawing the depoſitions aforeſaid; which perſon ſhall be paid for his ſervices by each county reſpectively.

November the 19th, 1789.

IF any record, or parcel of the ſame, writ, return, penal, proceſs, or warrant of attorney, in any court within this commonwealth, be willingly ſtolen, taken away, withdrawn, or avoided, by any clerk, or by any other perſon, becauſe whereof, any judgment ſhall be reverſed, ſuch ſtealer, taker away, withdrawer, or avoider, their procurers, counſellors and abettors, being thereof indicted and duly convicted, by their own confeſſion, or by inqueſt to be taken of lawful men, ſhall be judged for felons, and ſhall incur the pain of felony. *(a)*

RECORDS OF OTHER STATES. *See Foreign Deeds, Records and other Inſtruments.*

RELIGIOUS FREEDOM.

December the 16th, 1785.

§ I. WHEREAS Almighty God hath created the mind free; that all attempts to influence it by temporal puniſhments or burthens, or by civil incapacitations, tend only to beget habits of hypocriſy and meanneſs, and are a departure from the plan of

(a) 8 Hen. VI. c 12.

the Holy Author of our religion, who, being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporary rewards, which, proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence, by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess, or renounce this or that religious opinion, is depriving him, injuriously, of those privileges and advantages, to which in common with his fellow-citizens, he has a natural right; that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of worldly honors and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them:

II. No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument, to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

III. And though we well know that this assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with powers equal to our own, and that therefore to declare this act to be irrevocable, would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted, are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural right.

RELIGIOUS WORSHIP. See Suppression of Vice, Drunkenness, Disturbers of Religious Worship, and Sabbath-Breakers.

RENTS, DISTRESSES, AND REPLEVINS.

November the 29th, 1792—but commenced Oct. 1, 1793.

I. WHERE any goods or chattels ſhall be diſtrained for any rent, reſerved and due upon any demiſe, leaſe or contract whatſoever, and the tenant or owner of the goods ſo diſtrained, ſhall not within ten days after ſuch diſtreſs taken, and notice thereof, and the cauſe of ſuch taking left at the chief manſion houſe, or other moſt notorious place on the premiſes, charged with the rent diſtrained for, replevy the ſame, by ſufficient ſecurity given to the ſheriff or officer ſerving ſuch diſtreſs, to pay the money or tobacco, and all coſts, with lawful intereſt for the ſame, at the end of three months; in ſuch caſe, ſuch ſheriff or officer ſhall and may ſell the goods and chattels ſo diſtrained for, by public auction, to the higheſt bidder, either for money or tobacco, according as the rent reſerved ſhall be due and payable, to be paid at the end of three months; and ſhall take bond of the buyer or buyers, with one or more ſufficient ſecurities, to pay the ſame accordingly, with intereſt to the landlord for whom the diſtreſs was made. *(a)*

II. All and every bond and bonds, ſo taken in purſuance of this act, ſhall mention that the ſame was or were entered into for goods or other eſtate diſtrained for rent, and reſtored to the debtor, or ſold to the obligor, (as the caſe ſhall be) and before the expiration of the ſaid three months, ſhall be delivered to the landlord for whom diſtreſs was made. And if the money or tobacco ſhall not be paid according to the condition of any ſuch bond, it ſhall be lawful, and full power and authority, is hereby given to the juſtices of the court where ſuch bond ſhall be lodged, upon motion of the party to whom the ſame is payable, to award execution thereupon, with coſts, provided the obligors have ten days notice of ſuch motion; and upon ſuch execution, the ſheriff or officer ſhall not take any ſureties for payment of the money or tobacco at a further day, but ſhall levy the ſame immediately. And for the better direction of ſuch ſheriff or officer, the clerk ſhall endorſe upon the back of every ſuch execution, that "no ſecurity is to be taken." *(b)*

III. *Provided always*, That when diſtreſs ſhall be made for tobacco, between the laſt day of September and the laſt day of December in any year, and the goods diſtrained ſhall not be replevied as aforeſaid, ſuch goods ſhall be ſold, and ſecurity taken for paying the tobacco by the firſt day of January then next enſuing; and the bonds taken for the ſame, and coſts of ſeizure and ſale, ſhall be by the officer delivered to the landlord for whom diſtreſs was made; which laſt mentioned bonds ſhall have the like force, and may be proceeded upon in the ſame manner, as any other bond directed to be taken by this act. *(c)*

IV. IN caſe any diſtreſs and ſale ſhall be made, under colour of this act, for rent pretended to be in arrear and due, where in truth no rent is in arrear or due to the perſon or perſons diſtraining, or to him, her, or them in whoſe name or names, or right, ſuch diſtreſs ſhall be taken as aforeſaid, then the owner of the goods and chattels ſo diſtrained and ſold, his executors or adminiſtrators, ſhall have remedy, by action of treſpaſs, or upon the caſe, againſt the perſon and perſons ſo wrongfully diſtraining, or either of them, his, her, or their executors and adminiſtrators, and ſhall recover double the value of the goods and chattels ſo diſtrained and ſold, together with full coſts of ſuit. *(d)*

V. Upon any pound breach, or reſcous, of goods or chattels, diſtrained for rent, the perſon or perſons grieved thereby, ſhall, in a ſpecial action upon the caſe, for the wrong thereby ſuſtained, recover treble damages, with coſts of ſuit, againſt the offender and offenders, in any ſuch reſcous or pound breach, or either of them, or againſt the owner of the goods diſtrained, in caſe the ſame be afterwards found to have come to his or her uſe or poſſeſſion. *(a)*

(a) 1748 c 10 § 10 (b) 1748 c 8 § 14 (c) 1748 c 10 § 2 (d) 1748 c 10 § 3 (e) 1748 c 10 § 4.

VI. No goods or chattels whatſoever, lying or being in or upon any meſſuage, lands, or tenements, which are or ſhall be leaſed for life or lives, term of years, at will, or otherwiſe, ſhall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretence whatſoever, unleſs the party ſo taking the ſame, ſhall, before removal of the goods from off ſuch premiſes, pay or tender to the landlord or leſſor thereof, or his agent, all the money or tobacco due for the rent of the ſaid premiſes, at the time of taking ſuch goods or chattels in execution. *(a)*

VII. *Provided nevertheleſs*, That ſuch rent arrear do not amount to more than one year's rent; and if more be due, then the party ſuing out ſuch execution, paying or tendering to ſuch landlord, or his agent, one year's rent, may proceed to execute his judgment: And the ſheriff or officer ſerving the ſame, is hereby empowered and required, to levy and pay to the plaintiff, as well the money or tobacco ſo paid for rent, as the execution money. *(b)*

VIII. Where any landlord ſhall have ſufficient grounds to ſuſpect that his tenant will remove with his effects out of the county or corporation, before the expiration of his term, ſo as no diſtreſs for the ſaid rent can be made, it ſhall be lawful for ſuch landlord to go before any juſtice of the peace of the county or corporation, where the lands leaſed do lie, and make oath what rent the tenant is to pay, and at what time the ſame will be due, and that he has juſt cauſe to ſuſpect, and verily believes ſuch tenant will remove his or her effects out of the county or corporation before time of payment; and thereupon ſuch juſtice may, and he is hereby empowered and required, to iſſue an attachment againſt the goods and chattels of ſuch tenant, returnable to his next county or corporation court; and if ſuch tenant ſhall not, at the time of ſerving ſuch attachment, or before, or at ſuch next court, enter into recognizance, with one or more ſufficient ſecurities, for the payment of the ſaid rent at the time it ſhall become due, it ſhall be lawful for ſuch court, and they are hereby required to order the goods attached to be ſold by the ſheriff or ſerjeant at public auction, for money or tobacco according to the reſervation of the rent, to be paid at the time the rent ſhall become due, the purchaſers giving good ſecurity for ſuch payment, and to aſſign the bonds taken for the ſame, and the coſts to ſuch landlord; and the overplus of ſuch ſale, if any, beſides the charges of attachment and ſale, to return to the owner. *(c)*

IX. In caſe any leſſee for life or lives, term of years, at will, or otherwiſe, of meſſuages, lands or tenements, upon the demiſe whereof any rents are or ſhall be reſerved or made payable, ſhall at any time fraudulently or clandeſtinely, convey or carry off or from ſuch demiſed premiſes, his goods or chattels, with intent to prevent the landlord or leſſor from diſtraining the ſame for arrears of rent ſo reſerved, it ſhall be lawful for ſuch leſſor or landlord, or any perſon or perſons by him for that purpoſe lawfully empowered, within ten days next after ſuch conveying away or carrying off ſuch goods and chattels, to take and ſeize the ſame wherever they ſhall be found, as a diſtreſs for the arrears of ſuch rent, and the ſame to ſell in like manner as if they actually had been diſtrained by ſuch leſſor or landlord in and upon the demiſed premiſes. *(d)*

X. *Provided always*, That no goods or chattels ſo carried off, and bona fide ſold for a valuable conſideration before ſuch ſeizue made, ſhall be afterwards liable to be ſo taken or ſeized for any arrears of rent. *(e)*

XI. Any perſon or perſons having rent in arrear, or due upon any leaſe or demiſe for life or lives, may bring an action or actions of debt for ſuch arrears of rent, in the ſame manner as if ſuch rent were due and reſerved upon a leaſe for years. *(f)*

XII. It ſhall be lawful for any perſon or perſons having rent in arrear, or due upon any leaſe for life or lives, or for years, or at will, ended or determined, to diſtrain for ſuch arrears after the determination of the reſpective leaſes, in the ſame manner as if ſuch leaſe or leaſes had not been determined. *(g)*

(a) 1748 c 10 § 5 (b) 1748 c 10 § 6 (c) 1748 c 10 § 7 (d) 1748 c 10 § 8 (e) 1748 c 10 § 9
(f) 1748 c 10 § 10 (g) 1748 c 10 § 11.

XIII. *Provided*, That ſuch diſtreſs be made within ſix months after the determination of ſuch leaſe, and during the continuance of ſuch landlord's title or intereſt, and during the poſſeſſion of the tenant from whom ſuch arrears became due. And no diſtreſs for rent ſhall be made in any caſe whatſoever, but within five years after ſuch rent ſhall have become due and in arrear. *(a)*

XIV. *Provided alſo*, That nothing in this act contained, ſhall extend or be conſtrued to let, hinder, or prejudice the commonwealth, in the levying, recovering, or ſeizing any debts, fines, penalties, or forfeitures due, payable or anſwerable to the commonwealth; but that the ſame may be levied, recovered, and ſeized, in the ſame manner as if this act had never been made. *(b)*

XV. And whereas very great and unjuſt delays have ariſen from the ſuing out writs of replevin, in caſes of goods diſtrained for rent: For remedy whereof, before any writ of replevin ſhall be granted in caſe of goods and chattels diſtrained for rent, the perſon or perſons praying ſuch writ ſhall enter into bond, with one or more ſufficient ſecurities, in the clerk's office, in the penalty of at leaſt double the value of the rent diſtrained for, and coſts of ſuit, to perform and ſatisfy the judgment of the court in ſuch ſuit, in caſe he, ſhe, or they ſhall be caſt therein; and if upon the trial of ſuch ſuit, it ſhall be found that the rent diſtrained for, was juſtly due, the party injured or delayed by ſuing forth the ſaid writ, ſhall recover againſt the party ſuing forth and proſecuting the ſame, double the value of the rent in arrear and diſtrained for, with full coſts of ſuit. And upon any execution iſſued upon ſuch judgment, the clerk ſhall in like manner endorſe, that "no ſecurity is to be taken." *(c)*

XVI. Where any perſon ſhall ſuggeſt that the goods diſtrained, are his or her property, and not the property of the tenant, nor held in truſt for the uſe of the tenant in any manner whatſoever, and that the ſame in his or her opinion are not liable to ſuch diſtreſs, he or ſhe giving bond and ſecurity, in manner herein before directed, may ſue out a writ of replevin for ſuch goods, but not otherwiſe; and in caſe the perſon or perſons ſuing out the ſaid writ, ſhall be caſt in ſuch ſuit, judgment ſhall be given againſt him for double the value of the rent in arrear and diſtrained for, with full coſts as aforeſaid.

XVII. And for the more ſpeedy determination of all ſuch writs of replevin:

XVIII. Every ſuch writ ſhall be returnable to the next court after the ſame ſhall be iſſued, and ſuch court ſhall at their next ſitting after the return, cauſe an iſſue to be made up therein, which ſhall be tried at the following court, without waiting for its turn in the order of priority in regard to other ſuits.

XIX. All perſons being grantees or aſſignees of any lands, tenements or hereditaments, let to leaſe, or of the reverſions thereof, from any perſon or perſons, and the heirs, executors, adminiſtrators, and aſſigns of ſuch grantees or aſſignees, ſhall and may have and enjoy the like advantages againſt the leſſees, their executors, adminiſtrators and aſſigns, by entry for non-payment of the rent, or for doing of waſte, or other forfeitures, and alſo ſhall and may have and enjoy all and every ſuch like covenants and agreements, contained and expreſſed in the indentures of their ſaid leaſes, demiſes or grants, againſt all the ſaid leſſees, their executors, adminiſtrators, and aſſigns, as the ſaid leſſors themſelves, or their heirs ought, ſhould, or might have had, or enjoy at any time or times.

XX. All leſſees of any lands, tenements, or hereditaments, for a term of years, life or lives, their executors, adminiſtrators or aſſigns, ſhall and may have like action, or advantage againſt all and every perſon and perſons, their heirs and aſſigns, which have or ſhall have any gift or grant of the reverſion of the ſaid lands, tenements, or hereditaments, ſo letten, or any parcel thereof, for any condition, covenant, or agreement, contained or expreſſed in the indentures of their leaſe and leaſes, as the ſame leſſees or any of them, might

(a) 1748 c 10 § 12 (b) 1748 c 10 § 13 (c) 1769 c 1 § 1.

and ſhould have had againſt the ſaid leſſors and their heirs: All benefit and advantage of recoveries in value by reaſon of any warranty in deed or in law, only excepted.

XXI. The executors or adminiſtrators of any perſon unto whom any rent is or ſhall be due, and not paid at the time of his death, ſhall and may have an action of debt for all ſuch arrearages againſt the tenant or tenants, that ought to have paid the ſaid rent ſo being behind in the life of their teſtator, or againſt the executors or adminiſtrators of ſuch tenants; and alſo furthermore, it ſhall and may be lawful for every ſuch executor and adminiſtrator of any ſuch perſon, to whom ſuch rent is or ſhall be due and not paid at the time of his death, to diſtrain for the arrearages of all ſuch rents, on the lands, tenements, and other hereditaments, which were charged with the payment of ſuch rents, and chargeable to the diſtreſs of the ſaid teſtator, or inteſtate, ſo long as the ſame continue, remain, and be in the ſeizin or poſſeſſion of the ſaid tenant in demeſne, who ought immediately to have paid the ſaid rent, ſo being behind to the ſaid teſtator or inteſtate in his life time, or in the ſeizin or poſſeſſion of any perſon or perſons claiming the ſaid lands, tenements, and hereditamenss, only by and from the ſaid tenant by purchaſe, gift, or deſcent, in like manner and form as their ſaid teſtator might or ought to have done in his life time; and the ſaid executors and adminiſtrators for the ſame diſtreſs, lawfully may make avowry upon the matter aforeſaid.

XXII. If any man which now hath or hereafter ſhall have in the right of his wife any eſtate in fee ſimple, or for term of life, of, or in any rents or fee farms, and the ſame rents or fee farms now be or hereafter ſhall be due, behind and unpaid in the ſaid wife's life, then the ſaid huſband after the death of his ſaid wife, his executors and adminiſtrators, ſhall have an action of debt for the ſaid arrearages, againſt the tenant of the demeſne, that ought to have paid the ſame, his executors or adminiſtrators, and alſo the ſaid huſband, after the death of his ſaid wife, may diſtrain for the ſaid arrearages, in like manner and form as he might have done, if his ſaid wife had been then living, and make avowry upon his matter as is aforeſaid.

XXIII. The executors and adminiſtrators of any perſon or perſons having rent in arrear or due upon any demiſe or leaſe, for life or lives, or for years, or at will, although the ſame be determined, ſhall and may have the like remedy by action of debt, or by diſtreſs, againſt the perſon who ought to have paid the ſame, his or her executors or adminiſtrators, as the teſtator if living, might or could have had.

XXIV. It ſhall not be lawful for any perſon taking any diſtreſs to drive or remove the ſame out of the county where ſuch diſtreſs was taken: and whoſoever doth ſo, ſhall be amerced at the diſcretion of a jury; moreover diſtreſſes ſhall be reaſonable and not too great, and he that taketh great and unreaſonable diſtreſſes, ſhall be amerced for the exceſs of ſuch diſtreſſes.

The repealing clauſe is, in ſubſtance, as in the appendix No. 7.

REPLEVINS. *See Rents, Diſtreſſes, and Replevins.*

REPEALING CLAUSES, AND REPUBLICATION OF LAWS. *See Laws of Virginia.*

RESTITUTION. *See Stolen Goods.*

REVENUE. *See Public Revenue.*

RIGHT. See Writ of Right—See alſo Juſtice.

RIGHT OF ENTRY.

December the 19th, 1792—but commenced Oct. 1, 1793.

§ I. WHERE a huſband doth loſe the lands of his wife by default, it is unreaſonable that the wife after the death of her huſband, ſhould have no other recovery but by writ of right : *(a)*

II. A woman after the death of her huſband, ſhall not be injured by ſuch default, but ſhall notwithſtanding, retain her right of entry, and may proſecute the ſame, by any real or mixed action, that may beſt ſuit the caſe. If the tenant ſhall object to the wife's claim, that he entered by judgment, and it be found that his entry was by default, to which he ſhall anſwer, if required, he ſhall then further anſwer and ſhew his right in like manner as in the writ he firſt purchaſed againſt the huſband and wife, and if he can ſhew ſuch right, the wife ſhall gain nothing by her writ ; but if the huſband abſent himſelf and will not defend his wife's right, or againſt the wife's conſent, will render the wife's lands in any ſuit inſtituted againſt the huſband and wife for lands which are her inheritance during the coverture, then the wife may come at any time before judgment, and defend her right. *(a)*

III. If tenant in dower, tenant by the curteſy, or otherwiſe for the term of life, or by gift, where the reverſion is reſerved, do make default, or will give up, the heirs or they unto whom the reverſion belongeth, ſhall be admitted to their anſwer if they come before judgment ; and if upon ſuch default or ſurrender, judgment happen to be given, then the heir or they unto whom the reverſion belongeth, after the death of ſuch tenants, ſhall in no wiſe be injured by ſuch default or ſurrender.

IV. The dying ſeized hereafter of any diſſeiſor having no right or title, ſhall not be ſuch deſcent in law as to take away the right of entry from ſuch, as at the time of the death of the diſſeiſor, had lawful title of entry, except ſuch diſſeiſor hath had peaceable poſſeſſion five years next after the diſſeiſin committed without entry, or continual claim of ſuch as have lawful title. *(b)*

V. No feoffment, or other conveyance, or other act or acts hereafter to be made, ſuffered, or done by the huſband only, of any lands, tenements, or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, ſhall in any wiſe be, or make any diſcontinuance thereof, or be prejudicial or hurtful to the ſaid wife or her heirs, or to ſuch as ſhall have right, title, or intereſt to the ſame, by the death of ſuch wife ; but the ſaid wife or her heirs, and ſuch other to whom ſuch right ſhall appertain after her deceaſe, ſhall and may then lawfully enter into all ſuch lands, tenements, and hereditaments, according to their rights and titles therein ; any ſuch feoffment, or other conveyance, or act to the contrary notwithſtanding. *(c)*

The repealing clauſe is, in ſubſtance the ſame, as in the appendix No. 5.

RIOTS, ROUTS AND UNLAWFUL ASSEMBLIES.

December the 4th, 1786—but commenced July 1, 1787.

§ I. IF any riot, aſſembly, or rout of people againſt the law, be made in any part of the commonwealth, the juſtices of peace, three or two of them at the leaſt, and the ſheriff or under ſheriff of the county, or ſerjeant of a corporation, as the caſe may be, where ſuch riot, aſſembly, or rout ſhall be made, ſhall come with the power of the county, (if

(a) 13 Edw. I. c 3. *(b)* 32 Hen. VIII. c 33. *(c)* 32 Hen. VIII. c 28 § 6.

need be) to arreſt them, and ſhall arreſt them; and the ſame juſtices and ſheriff, under-ſheriff, or ſerjeant, ſhall have power to record that which they ſhall find ſo done in their preſence againſt the law, by which record ſuch treſpaſſers and offenders ſhall be convict, and ſhall be taken and put in the jail of the ſame county or corporation, there to abide for ſo long time as ſhall be limited by a jury, to be ſworn by the judges for that purpoſe, and further, until they ſhall have paid ſuch amercement as the ſame jury ſhall aſſeſs.

II. And if it happen that ſuch treſpaſſers and offenders be departed before the coming of the ſaid juſtices and ſheriff, under-ſheriff, or ſerjeant, the ſame juſtices, three, or two of them, ſhall diligently enquire within a month, after ſuch riot, aſſembly or rout of people, ſo made, and thereof ſhall hear and determine according to law; and for this purpoſe the ſheriff, or ſerjeant, having a precept directed to him, ſhall return twenty-four fit perſons, twelve of whom having been ſworn, ſhall enquire of the ſaid riot, rout, or unlawful aſſembly, and award againſt thoſe whom they ſhall find guilty thereof, due pains, by amercement and impriſonment, as is before directed; and if ſo many of them ſhould not appear, thoſe who make default, ſhall be fined by the ſame juſtices, five pounds each; and if the default be in the ſheriff, under ſheriff, or ſerjeant, he ſhall forfeit to the commonwealth, twenty pounds.

III. And if the ſaid riot, rout, or unlawful aſſembly, be not found by the ſaid jury, by reaſon of any maintenance, embracery, partiality, or other miſbehaviour of the ſaid jurors, then the ſaid juſtices, and the ſheriff, under ſheriff, or ſerjeant, ſhall certify the whole matter and circumſtances to the general court, and alſo the names of the maintainers, and embracers in that behalf, if any be, with their miſdemeanours that they know, in order that they may be duly proſecuted, upon pain of every of the ſaid juſtices and ſheriff, under-ſheriff, and ſerjeant, to forfeit twenty pounds, if they have no reaſonable excuſe for not certifying the ſame, which certificate ſhall be of like force as the preſentment of a grand jury; and thereupon the ſaid treſpaſſers and offenders being put to anſwer, they which ſhall be found guilty, ſhall be puniſhed by impriſonment and amercement, according to the diſcretion of a jury, as is before directed; and if the ſame treſpaſſers do not appear before the general court, at the firſt precept, then ſhall another precept be directed to the ſheriff of the county, to take the ſaid treſpaſſers and offenders, if they may be found, and to bring them at a certain day, before the general court; and if they cannot be found, the ſheriff, under-ſheriff, or ſerjeant, ſhall make proclamation in his full county, or corporation, next enſuing the delivery of the ſecond precept, that they ſhall appear before the general court on a day named; and in caſe the ſame offenders come not as afore is ſaid, and the proclamation made and returned, they ſhall be convict and attainted of the riot, aſſembly, or rout, aforeſaid.

IV. And moreover the juſtices of peace in every county or corporation, where ſuch riot, aſſembly, or rout of people ſhall be made, in caſe the ſame be made in their preſence, or if none be preſent, then the juſtices having notice thereof, together with the ſheriff, under-ſheriff, or ſerjeant, of the ſame county or corporation, ſhall do execution of this act, every one upon pain of twenty pounds, to be paid to the commonwealth, as often as they ſhall be found in default of the execution of the ſaid act.

V. And on ſuch default of the juſtices and ſheriff, under-ſheriff, or ſerjeant, a commiſſion ſhall go from the general court at the inſtance of the party grieved, to enquire as well of the truth of the caſe, and of the original matter for the party complainant, as of the default or defaults of the ſaid juſtices, ſheriff, under-ſheriff, or ſerjeant, in this behalf ſuppoſed to be directed to ſufficient and indifferent perſons at the nomination of the judges; and the ſaid commiſſioners preſently ſhall return into the general court the inqueſts and matters before them in this behalf taken and found:

VI. But no perſons convicted of a riot, rout, and unlawful aſſembly, ſhall be impriſoned for ſuch offence, by a longer ſpace of time than one year. Perſons legally convicted of

a riot, rout, or unlawful aſſembly, otherwiſe than in the manner directed by this act, ſhall be puniſhed by impriſonment and amercement, at the diſcretion of a jury, under the like limitation.

ROADS.

January the 5th, 1786.—but commenced Jan. 1, 1787.

§ I. WHERE any perſon or perſons ſhall make application to any county court, to have a new road opened, or a former one altered, within their country, for the convenience of travelling to their county courthouſe, to any public warehouſe, landing, ferry, mill, lead or iron works, or to the ſeat of government, they ſhall appoint three or more fit and able perſons, to be ſworn before a juſtice of the peace, to view the ground along which ſuch road is propoſed to be conducted, and to report to them truly and impartially the conveniences and inconveniences which will reſult, as well to individuals as to the public, if ſuch way ſhall be opened; and where the application is to alter a former road, they ſhall alſo view the former road, and report in like manner, the comparative conveniences and inconveniences thereof.

II. Upon the return of the ſaid viewers, if the court ſhall be of opinion that the road applied for will be convenient, they ſhall order ſummonſes to be iſſued to the proprietors and tenants of the lands, through which the ſame is propoſed to be conducted, if they be found within the county, and if not, then to their agents therein, if any they have, to ſhew cauſe why ſuch road ſhould not be opened; upon the return of which ſummons, if any proprietor or tenant ſo deſire, the ſaid court ſhall order their clerk to iſſue a writ in the nature of a writ ad quod dammum, to be directed to the ſheriff, commanding him to ſummon and empannel twelve able and diſcreet freeholders of the vicinage, no ways related to either party, to meet at ſome certain place on the ground through which the ſaid road is propoſed to be conducted, and on a certain day to be named by the court, and inſerted in the ſaid writ, of which notice ſhall be given by the ſheriff to the ſaid proprietors or tenants, or their agents, as before directed, if they were not preſent in court at the time of the order made; which freeholders, taking nothing (on pain of being diſcharged from the inqueſt, and immediately impriſoned by the ſheriff) either of meat or drink, from any perſon whatever, from the time they ſhall come to the ſaid place until their inqueſt ſealed, ſhall be charged by the ſaid ſheriff impartially, and to the beſt of their ſkill and judgment, to view the lands through which the ſaid road is propoſed to be conducted, and ſay to what damage it will be of to the ſeveral and reſpective proprietors and tenants, who deſired ſuch writ, taking into eſtimation as well the uſe of the lands to be laid open for ſuch road, as the additional fencing, which will thereby be rendered neceſſary; and if the ſaid inqueſt cannot be compleated in one day, the ſheriff ſhall adjourn the ſaid jurors from day to day, until the ſame be completed: Which inqueſt, ſealed by the ſaid jurors, together with the writ, ſhall be returned to the court, who thereupon, as well as upon other evidence, ſhall proceed to conſider whether, all circumſtances weighed, it be better that the ſaid road ſhall be opened, and if they be of opinion that the ſame ſhall be opened, they ſhall levy on their county, at their next levy to be laid, the damages ſo found, and the coſts of the inqueſt, and direct them to be paid to thoſe reſpectively entitled thereto. But if they ſhall be of opinion that the ſaid road ought not to be opened, the coſts of ſuch inqueſt ſhall be adjudged againſt the party applying for the ſaid road. But it ſhall not be lawful for any court to order a road to be opened through any lot of land in any town, without the conſent of the owner and tenant thereof.

III. The ſeveral courts ſhall alſo divide all the public roads into precincts, and as often as it ſhall be neceſſary, appoint a ſurveyor over every precinct, whoſe duty it ſhall be to ſuperintend the road in his precinct, and ſee that the ſame be cleared and kept in good re-

pair; which ſurveyor ſhall continue in office until another ſhall be appointed by the ſaid court in his ſtead.

IV. All male labouring perſons, of the age of ſixteen years or more, except ſuch as are maſters of two or more male labouring ſlaves, of the age of ſixteen years or more, ſhall be appointed by the court to work on ſome public road: For every perſon ſo appointed, who, when required by the ſurveyor placed over him, ſhall, without legal cauſe or diſability, fail to attend, with proper tools for clearing the road, or ſhall refuſe to work when there, or to find ſome other perſon equally able, to work in his room, the ſum of ſeven ſhillings and ſix-pence for every day's offence, ſhall be paid, by himſelf, if he be a freeman of full age, if an infant, then by his parent, guardian, or maſter, and if a ſlave or ſervant, then by his overſeer, if he be under one, or otherwiſe, by his maſter.

V. The clerk of every county court ſhall, within ten days after the appointment of any ſurveyor of a road, deliver a copy of the order to the ſheriff of the county, under the penalty of fifteen ſhillings; and the ſheriff, within fifteen days after the receipt of ſuch order, ſhall deliver the ſame to the ſurveyor, under the penalty of fifteen ſhillings. And each clerk ſhall moreover, once in every year, fix up in the court-houſe, a liſt of the names and precincts of all the ſurveyors of roads in his county, under the penalty of fifty ſhillings for every neglect.

VI. Every ſurveyor of a road ſhall cauſe the ſame to be conſtantly kept well cleared and ſmoothed, and thirty feet wide at the leaſt; and at the fork or croſſing of every public road, ſhall cauſe to be erected and kept in repair from time to time, a ſtone, or otherwiſe an index on a poſt or tree, with plain inſcriptions thereon, in large letters, directing to the moſt noted place to which each of the ſaid roads ſhall lead, and may take ſtone or wood for that purpoſe from any adjoining land; and for the expence of ſetting up and inſcribing ſuch ſtones, poſts, or indexes, and keeping them in repair, the ſurveyor ſhall be reimburſed by the county court in their next ſucceeding levy; and where bridges and cauſeys are neceſſary, the ſurveyor ſhall cauſe them to be made, twelve feet broad at the leaſt, convenient and ſafe, and ſhall keep the ſame in repair, and for that purpoſe may cut and take from the lands of any perſon adjoining, ſuch, and ſo much timber, earth, or ſtone, as may be neceſſary, the ſame being firſt viewed and valued by two honeſt houſe-keepers appointed and ſworn for that purpoſe by a juſtice of the peace, unleſs the owner ſhall freely give ſuch timber, ſtone, or earth, for that uſe; but where a road leads through a city or town, the ſurveyor ſhall not take any timber, ſtone, or earth, from any lot within the town, without the permiſſion of the owner, but ſhall take the ſame from the lands nigh or adjacent to the ſaid town, where it will do the leaſt injury to the proprietor; and where the aſſiſtance of wheel-carriages is neceſſary for making or repairing any cauſeys, any juſtice of peace may iſſue his warrant, under his hand and ſeal, for empowering the ſurveyor to impreſs ſuch neceſſary carriages, draught horſes, or oxen, with their gear and driver, belonging to any perſon who, or their ſervants or ſlaves, are appointed to work on the road, and appointing two honeſt houſe-keepers, who, being ſworn, ſhall value, by the day, the uſe of ſuch carriages, draught horſes, oxen, and driver, which valuation, with a certificate from the ſurveyor how many days the ſaid things were employed in the work, ſhall entitle the owner to an allowance for the ſame in the next county levy. And in the like manner ſhall the owner of timber, ſtone, or earth, taken for bridges or cauſeys, be entitled to the valuation thereof in the next county levy, upon a certificate from the two houſe-keepers who value the ſame. Every ſurveyor of a road, who fails to do his duty as aforeſaid, ſhall forfeit fifteen ſhillings for every offence.

VII. Where a bridge or cauſey ſhall be neceſſary, and the ſurveyor, with his aſſiſtants, cannot make or maintain the ſame, the court of the county are empowered and required to contract for the building and repairing ſuch bridge or cauſey, and to levy the charge thereof in their county levy. And where ſuch bridge or cauſey ſhall be neceſſary from one

county to another, the court of each county ſhall join in the agreement for building and repairing the ſame, and the charge ſhall be defrayed by both counties, in proportion to the public tax or aſſeſſment paid by each. Upon every ſuch contract or agreement, bond and ſecurity ſhall be given by the undertaker, payable to the governor and his ſucceſſors, for the uſe of the county or counties, as the caſe ſhall be, with condition for performing the ſame, and may be proſecuted at the coſts, and for the benefit of the county or counties, or any perſon ſuſtaining a loſs by the breach thereof, as often as it ſhall happen, until the whole penalty of the bond ſhall be paid. And all ſuch contracts made by county courts, or others appointed by them, ſhall be available and binding upon the juſtices and their ſucceſſors, ſo as to entitle the undertaker to his ſtipulated reward in the county levy, or to a recovery thereof, with coſts, by action of debt, againſt the juſtices refuſing to levy the ſame.

VIII. When the juſtices of one county ſhall judge a bridge or cauſey over any place between them and another county to be neceſſary, they ſhall notify the ſame to the juſtices of ſuch other county, and require them to appoint three perſons to meet at the ſaid place on a certain day to be named by the court requiring the ſame, to confer with three others, to be appointed by the ſaid requiring court, and agree on the manner and condition of executing the ſame; which ſix perſons, or ſo many of them as meet, being not fewer than three, ſhall have power to agree on the manner and conditions of doing the ſaid work, and to ſee that the ſame be done: And if the court ſo required, ſhall fail to appoint perſons to act on their behalf, or to do what on their part ſhould be done, towards executing and paying for the ſaid work, the juſtices of the court which made the requiſition, ſhall apply to the general court for a writ of mandamus, to be directed to the juſtices of the other court, commanding them to do, what on their part they ought to have done, and have failed to do, or to ſignify to them cauſe to the contrary thereof; upon the return of which writ, the general court, if they ſhall be of opinion that the work is unneceſſary, or that other ſufficient cauſe is returned, ſhall quaſh the writ, or if they think otherwiſe, ſhall cauſe ſuch further proceedings to be had as are uſual in other caſes of mandamus iſſuing from the ſaid court: And the like method of proceeding by way of mandamus ſhall be uſed, where the juſtices of one county ſhall think it neceſſary to open a road to their county line, for the convenience of paſſing to ſome public place in another, and the juſtices of ſuch other ſhall refuſe to continue the road through their county.

IX. If any perſon ſhall fell a tree into a public road, or into any ſtream of water, whereon there ſhall be any public bridge, and ſhall not remove the ſame within forty-eight hours, or ſhall kill a tree within the diſtance of fifty feet, from the road, or ſhall cut, pull up, deſtroy or deface, any ſtone or poſt, erected for the direction of travellers, or the indexes or inſcriptions thereon, it ſhall be deemed a nuiſance. Every free man of full age, ſo offending, or the parent, maſter, or owner, of every child, apprentice, ſervant, or ſlave ſo offending, with his or her knowledge, ſhall forfeit and pay ten pounds for every offence. And where any fence ſhall be made acroſs a public road, the owner or tenant of the land ſhall pay ten ſhillings for every twenty-four hours the ſame ſhall be contined.

X. The owner or occupier of every dam over which a public road paſſes, ſhall conſtantly keep ſuch dam in repair, at leaſt twelve feet wide at the top, through the whole length thereof, and ſhall keep and maintain a bridge of like breadth, with ſtrong rails on each ſide thereof, over the pier-head, flood-gates, or any waſte, cut through or round the dam, under the penalty of ten ſhillings for every twenty-four hours failure; but where a mill-dam ſhall be carried away or deſtroyed by tempeſt, or accident, the owner or occupier thereof ſhall not be liable to the ſaid penalties from thence forth, until one month after ſuch mill ſhall have been ſo repaired as to have ground one buſhel of grain.

XI. All the penalties in this act, not otherwiſe directed, ſhall be, one moiety to the informer, and the other to the uſe of the county, recoverable with coſts, on warrant, petition,

or action, as the case may be. Any justice, who, upon his own view, shall discover a road, bridge, causey, or mill-dam, as aforesaid, out of repair, shall issue a warrant against the surveyor, or other delinquent, and if no reasonable excuse be made for such default, may give judgment for the penalty and costs, not exceeding twenty-five shillings, or such offenders may be presented by the grand juries; in all which cases of conviction, on view of a justice, or presentment, or on private informations to justices, where there shall be no evidence to convict the offender but the informer's own oath, the whole penalties shall be to the use of the county, towards lessening the levy thereof, and shall be annually collected and accounted for by the sheriff, in the same manner as county levies; and to enable the sheriff to make such collection, every justice, immediately on conviction of any offender, where the penalty is to be to the county, shall certify the same to the clerk of his county court, who shall yearly, before the first day of March, deliver to the sheriff a list of all the offenders so certified, and of all others convicted in court, within one year preceding, of any offence against this act.

XII. *Provided*, That prosecutions for any offence herein mentioned, shall be commenced within six months after the offence committed, and not after.

ROUTS. *See Riots, Routs, and Unlawful Assemblies.*

ROYAL ASSENT.

December the 14th, 1787.

§ I. WHEREAS divers acts of the general assembly of Virginia, as well public as private, were passed during the former regal government, with clauses therein for their suspension until the royal approbation thereof respectively should be obtained, a notification of which assent when transmitted hither from Great Britain, was registered in the council books of that time; but as most of those books were lost or destroyed during the late war, persons who may be interested to prove the fact of such assent having been obtained, are deprived of that highest species of evidence, whereby many citizens may be involved in expensive and troublesome contentions, and in the private cases purchasers may lose not only their purchase money, but valuable improvements: For remedy wherein,

II. From and after the passing of this act, when in any court of law or equity a question shall arise, whether an act of assembly passed with a clause suspending such act until the royal approbation thereof was obtained, hath received such approbation, every such question shall be discussed upon such evidence and circumstances as may be produced by the parties, without requiring either party to shew the official assent to such act, or a certificate from the council books that such assent was registered therein; any law, usage, or custom, to the contrary, notwithstanding.

RUNAWAYS.

December the 16th, 1792—but commenced Oct. 1, 1793.

§ I. ANY person may apprehend a servant or slave, suspected to be a runaway, and carry him before a justice of the peace, who, if to him the servant or slave appear, by the oath of the apprehender, to be a runaway, shall give a certificate of such oath, and the distance, in his opinion, between the place where the runaway was apprehended, and that from whence he fled; and the apprehender shall thereupon convey the runaway to the last mentioned place, or deliver him to the owner, or some other authorised to receive him,

or to the jailor of the county or corporation in which he was apprehended, and ſhall be entitled to one dollar and ſixty-ſeven cents, and ten cents for every mile of ſuch diſtance as he ſhall neceſſarily convey him, to be paid by the owner; and if ſuch runaway be committed to the jail of any county or corporation, the keeper thereof ſhall forthwith cauſe an advertiſement, with a deſcription of the runaway's perſon and wearing apparel, to be ſet up at the door of the courthouſe of his county or corporation: *Provided*, That if the owner or overſeer of ſuch runaway ſhall be an inhabitant of the county where ſuch runaway is taken up, the taker-up ſhall, in that caſe, convey and deliver him or her to the owner or overſeer, as aforeſaid, and ſhall not be at liberty to carry ſuch runaway to the jail of the county or corporation, as is before directed. *(a)*

II. If the owner claim not within two months thereafter, the ſheriff or ſerjeant ſhall publiſh a like advertiſement for three months in the Virginia Gazette, and ſhall hire the runaway out during ſuch time, and for ſuch wages as his county or corporation court ſhall approve, having put an iron collar, ſtamped with the letter F, round his neck, and out of his wages pay the reward for apprehending, and the expences incurred on his account; but he ſhall deliver the runaway, even before the time expire, and pay the balance of the wages received, if any, to him who ſhall claim, and who having proved before the court of ſome county or corporation, or a juſtice of the peace of the county or corporation, in which ſuch runaway is confined, that he had loſt ſuch an one as was deſcribed in the advertiſement, and having there given ſecurity to indemnify the ſheriff or ſerjeant, ſhall produce the clerk's, or the juſtice's certificate, of ſuch proof made, and ſecurity given, proved by his own or another's oath, the runaway when ſhewn to him, to be the ſame that was ſo loſt, and pay ſo much as the expences aforeſaid ſhall exceed the wages. *(a)*

III. The runaway being a ſlave, after the end of one year from the laſt advertiſement, ſhall be ſold, and the proceeds of the ſale, with the balance of the wages, paid to the public treaſurer, for the uſe of the owner, proving his property at any future time, or otherwiſe for the uſe of the commonwealth. *(a)*

IV. If the runaway die in jail, the expences ſhall be defrayed by the public. *(a)*

V. The runaway, if he ſhall have croſſed the bay of Cheſapeake, ſhall be delivered to the ſheriff of ſome county bounded thereby, who ſhall tranſport him to the other ſide, and cauſe him to be put into the hands of a conſtable, to be by conſtable to conſtable conveyed to the owner, who ſhall pay to the ſheriff twenty dollars, and to the conſtable ten cents for every mile he ſhall neceſſarily travel in performing this duty. *(a)*

VI. Upon any owner's neglecting or refuſing to pay the above reward, the taker-up may ſue for, and recover the ſame with coſts, either by warrant before a ſingle juſtice, where the reward ſhall not exceed five dollars, or where the reward ſhall exceed that ſum, by petition, or action, as the caſe may require, in any court of record within this commonwealth. *(b)*

VII. The keeper of every jail may demand and take for the commitment of every runaway, twenty-five cents, and the ſame for releaſement; and for every twenty-four hours keeping him or her in jail, ſeventeen cents, and no more; and if he, or any ſheriff, ſerjeant, or jailor, ſhall demand or take any other or greater fee than is, or ſhall be allowed by law for runaways, he or they ſo offending, ſhall for every ſuch offence, forfeit and pay four dollars to the party grieved, and ſhall alſo refund and pay back all money received over and above the legal fees; recoverable with coſts, before any juſtice of the peace of the county or corporation where ſuch offence ſhall be committed. *(c)*

The repealing clauſe is, in ſubſtance, as in the appendix No. 5.

(*a*) 1785 c 84 § 1. (*b*) 1769 c 19 § 3 (*c*) 1753 c 2 § 24—1772 c 2 § 3.

SABBATH-BREAKERS. *See Suppreſſion of Vice, Drunkenneſs, Diſturbers of Religious Worſhip, and Sabbath-Breakers.*

SALARIES.

November the 22d, 1792—but commenced Jan. 1, 1793.

THE ſeveral officers herein after mentioned, ſhall receive for their ſalaries in quarterly payments, after the ſame ſhall have been audited, according to law. The governor or chief magiſtrate, the ſum of two thouſand ſix hundred and ſixty-ſeven dollars. The members of the privy council, the ſum of ſix thouſand ſix hundred and ſixty-ſeven dollars, to be divided amongſt them according to their attendance. The judges of the court of appeals, the judge of the high court of chancery, and the judges of the general court, each, the ſum of one thouſand dollars. The attorney-general, the ſum of ſix hundred and ſixty-ſeven dollars, per annum, and to each of his deputies in the diſtrict courts, ſeventy-five dollars, per annum. The auditor of public accounts, the ſum of one thonſand dollars per annum. The ſpeaker of the ſenate, the ſum of three dollars and thirty-four cents per day, during each ſeſſion of aſſembly, including his daily pay. The ſpeaker of the houſe of delegates, the ſum of ſix dollars and ſixty-ſeven cents per day, in like manner. The clerk of the general court, for his exofficio ſervices, the ſum of one hundred dollars per annum. The regiſter of the land-office and his clerks, the ſum of one thouſand three hundred and thirty three dollars per annum. The treaſurer, the ſum of ſixteen hundred and ſixty-ſeven dollars per annum. The firſt clerk of the council, treaſury, and auditor, the ſum of five hundred dollars per annum, each, and each of the other clerks of the council, treaſury, and auditor, the ſum of three hundred and thirty-four dollars per annum. And the keeper of the public jail, the ſum of eighty-four dollars per annum. All thoſe ſeveral ſums ſhall be paid in ſpecie, and the auditor is hereby authoriſed to audit the ſame, and iſſue his warrants upon the treaſury accordingly.

The repealing clauſe is, in ſubſtance, as in the appendix No. 7.

December the 6th, 1793—but commenced January 1, 1794.

§ I. SO much of the act of the laſt ſeſſion of the general aſſembly, intituled, "An act for aſcertaining the ſalaries of the officers of civil government," as relates to the ſalary of the clerk of the general court, ſhall be, and the ſame is hereby repealed.

II. The clerk of the ſaid court ſhall receive for his ex-officio ſervices, the ſum of two hundred and fifty dollars per annum.

III. In caſe of a vacancy in the office of clerk of the general court, during vacation, any three judges of the ſaid court (of whom the ſenior juſtice ſhall be one) ſhall appoint a clerk, who upon taking the oath required by law, before any juſtice of the peace, ſhall continue in office until a clerk ſhall be appointed by the ſaid court. *Provided nevertheleſs*, That the clerk of the general court now in office, may continue to hold the ſame until the next meeting of the general court; any thing in any law to the contrary thereof, notwithſtanding.

IV. The preſent judge of the high court of chancery, during his continuance in office, be allowed a ſum not exceeding two hundred and fifty dollars per annum, for the purpoſe of employing a clerk.

December the 26th 1795—but commenced Jan. 1, 1796.

THE ſalary of the judge of the high court of chancery, ſhall, and is hereby declared to be, after and at the rate of ſixteen hundred dollars and ſixty-ſeven cents per annum, payable in the like manner and proportions, as the ſalary heretofore allowed to the chancellor has been paid.

SALE OF LANDS. *See Public Debts.*

SEAMEN. *See Marine Hospital.*

SECURITIES.

December the 27th, 1792.

§ I. IN all cases where judgment hath been or shall hereafter be entered up in any of the courts of record within this commonwealth, against any person or persons as security or securities, their heirs, executors, or administrators, upon any note, bill, bond or obligation, and the amount of such judgment, or any part thereof, hath been paid or discharged by such security or securities, his, her, or their heirs, executors or administrators, it shall and may be lawful for such security or securities, his, her, or their executors or administrators, to obtain judgment by motion against such principal obligor or obligors, his, her, or their heirs, executors or administrators, for the full amount of what shall have been paid by the security or securities, his, her, or their heirs, executors or administrators, in any court where such judgment may have been entered up against such security or securities, his, her, or their heirs, executors, or administrators.

II. Where the principal obligor or obligors, have or hereafter shall become insolvent, and there have been, or shall be two or more securities jointly bound with the said principal obligor or obligors in any bond, bill, note, or other obligation, for the payment of money or other thing, and judgment hath been or hereafter shall be, obtained against one or more of such securities, it shall and may be lawful for the court before whom such judgment was or shall be obtained, upon motion of the party or parties against whom judgment hath been entered up as securities aforesaid, to grant judgment and award execution against all and every of the obligors and their legal representatives, for their and each of their respective shares and proportions of the said debt.

III. No security or securities, his, her, or their executors or administrators, shall be suffered to confess judgment, or suffer judgment to go by default, so as to distress his, her, or their principal, or principals, if such principal or principals will enter him, her, or themselves, a defendant or defendants to the suit, and tender to the said security or securities, his, her, or their executors or administrators, other good and sufficient security, to be approved of by the court before whom the suit shall be depending.

IV. In all cases, where judgment hath been, or shall hereafter be entered up in any of the courts of record in this commonwealth, against any person as common bail for the appearance of another, to defend any suit depending in such court, and the amount of such judgment or any part thereof hath been paid or discharged by such common bail, his, her, or their heirs, executors or administrators, it shall and may be lawful for such common bail, his, her, or their heirs, executors or administrators, to obtain judgment by motion, against the person or persons for whose appearance they were bound, his, her, or their heirs, executors or administrators, for the full amount of what shall have been paid by the said common bail, his or her heirs, executors or administrators, in any court where judgment may have been entered up against such common bail. *Provided always*, That no judgment shall be obtained by motion as aforesaid, unless the party or parties against whom the same is prayed, shall have ten days previous notice thereof.

December the 23d, 1794—but commenced March 1, 1795.

§ I. WHEREAS in many instances creditors have delayed to commence actions on bonds, bills, or promissory notes, executed to them for tobacco or money, until the principal debtor or debtors of such creditors either becoming insolvent or migrating from this commonwealth, the innocent securities of such debtor or debtors have been

ultimately compelled to diſcharge the amount of the money or tobacco due by ſuch bill, bond, or note, without the poſſicility of being afterwards reimburſed by ſuch principal debtor or debtors: For remedy whereof,

II. When any perſon or perſons ſhall hereafter become bound as ſecurity or ſecurities by bond, bill, or note, for the payment of money or tobacco, and ſhall apprehend that his or their principal debtor or debtors is or are likely to become inſolvent, or to migrate from this commonwealth, without previouſly diſcharging ſuch bond, bill, or note, ſo that it will be impoſſible or extremely difficult for ſuch ſecurity or ſecurities after being compelled to pay the amount of the tobacco or money which may be due by ſuch bond, bill, or note, to recover the ſame back from ſuch principal debtor or debtors, it ſhall and may be lawful for ſuch ſecurity or ſecurities, in every ſuch caſe, provided an action ſhall have accrued on ſuch bond, bill, or note, to require by notice in writing of his or their creditor or creditors, forthwith to put the bond, bill, or note, by which he or they may be bound as ſecurity or ſecurities as aforeſaid, in ſuit; and unleſs the creditor or creditors ſo required to put ſuch bond, bill, or note, in ſuit, ſhall in a reaſonable time commence an action on ſuch bond, bill, or note, and proceed with due diligence in the ordinary courſe of law to recover a judgment for, and by execution to make the amount of the tobacco or money due by ſuch bond, bill, or note, the creditor or creditors ſo failing to comply with the requiſition of ſuch ſecurity or ſecurities, ſhall thereby forfeit the right which he or they would otherwiſe have to demand and receive of ſuch ſecurity or ſecurities the amount of the money or tobacco which may be due by ſuch bond, bill, or note.

III. Any ſecurity or ſecurities, or in caſe of his or their death, then his or their executors or adminiſtrators, may in like manner and for the ſame cauſe make ſuch requiſition of the executors or adminiſtrators of the creditor or creditors of ſuch ſecurity or ſecurities, as it is herein before enacted may be made by a ſecurity or ſecurities of his or their creditor or creditors; and in caſe of failure of the executors or adminiſtrators ſo to proceed, ſuch requiſition as aforeſaid being duly made, the ſecurity or ſecurities, his or their executors or adminiſtrators, making the ſame, ſhall have the ſame relief that is herein before provided for a ſecurity or ſecurities when his or their creditor or creditors ſhall be guilty of a ſimilar failure.

IV. *Provided always*, That nothing in this act contained ſhall be ſo conſtrued as to affect bonds with collateral conditions, or the bonds which may be entered into by guardians, executors, adminiſtrators, or public officers.

V. *And provided alſo*, That the rights and remedies of any creditor or creditors againſt any principal debtor or debtors, ſhall be in no wiſe affected by this act. Any thing therein to the contrary, or ſeeming to the contrary, notwithſtanding.

December the 23d, 1794.

§ I. IN all caſes where execution hath been or ſhall hereafter be awarded or iſſued in any of the courts of record within this commonwealth, againſt any perſon or perſons as ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators, upon any bond, obligation, or recognizance upon which by the laws of this commonwealth execution can be ſo awarded or iſſued without judgment, and the amount of ſuch bond, obligation, or recognizance, or any part thereof, or the debt or damages due by reaſon thereof, or any part thereof, hath been paid or diſcharged under the ſaid execution iſſued thereon by ſuch ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators, it ſhall and may be lawful for ſuch ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators, to obtain judgment by motion againſt ſuch principal obligor or obligors, recognizor or recognizors, his, her, or their heirs, executors, or adminiſtrators, in any court where ſuch execution may have been awarded or iſſued againſt ſuch ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators.

II. Where the ſaid principal obligor or obligors, recognizor or recognizors, have or hereafter ſhall become inſolvent, and there have been, or ſhall be two or more ſecurities jointly bound with the ſaid principal obligor or obligors, recognizor or recognizors, in any ſuch bond, obligation, or recognizance, and execution ſhall be awarded or iſſued thereon againſt one or more of ſuch ſecurities, and his or their legal repreſentatives, it ſhall and may be lawful for the court in which ſuch execution was awarded or iſſued, upon motion of the party or parties, his or their legal repreſentatives, againſt whom execution hath been awarded or iſſued as aforeſaid, to award or iſſue execution againſt all and every of the obligors and recognizors, and legal repreſentatives, for their and each of their reſpective ſhares and proportions of the ſaid debt or damages due by reaſon of the ſaid obligation or recognizance. *Provided always*, That no judgment ſhall be obtained or execution awarded or iſſued by motion as aforeſaid, unleſs the party or parties againſt whom the ſame is prayed, ſhall have ten days previous notice in writing thereof.

III. All judgments entered, and executions awarded and iſſued by virtue of this act, ſhall be enforced under the like regulations with judgments under the act, intituled, "An act to empower ſecurities to recover damages in a ſummary way,"

SELLING AND BUYING OFFICES. *See Offices.*

SENATORS OF THE UNITED STATES.

December the 2d, 1788.

§ I. SO ſoon as any election ſhall be made of Senators for this commonwealth, in purſuance of the conſtitution of the United States of America, the clerk of the houſe of delegates ſhall notify the ſame to the governor, who ſhall cauſe a credential to be made out, and the ſeal of the commonwealth affixed thereto, ſhall ſign the ſame, and cauſe it to be delivered to each ſenator; which credential ſhall be in the words following:

"Virginia, to wit: The Legiſlature of this commonwealth, on the day of
" one thouſand ſeven hundred and , having, in purſuance of the conſti-
" tution for the United States of America, choſen , Eſquire, a Senator, I,
" being governor or chief magiſtrate of the commonwealth, do hereby cer-
" tify the ſame to the ſenate of the ſaid United Staes. Given under my hand, and the ſeal
" of the commonwealth, this day of , one thouſand ſeven hundred and

A like notification ſhall be made, and a like credential ſhall be delivered to Richard Henry Lee, and William Grayſon, Eſquires, who have been choſen ſenators for this commonwealth.

II. Whenever the executive ſhall, by virtue of the ſaid conſtitution, make a temporary appointment of a ſenator, a credential ſhall be prepared with the forms and ſolemnities aforeſaid, and ſhall be delivered to ſuch temporary ſenator, in the words following:

"Virginia, to wit: A. B. Eſquire, who was duly choſen a ſenator for this common-
" wealth, in purſuance of the conſtitution for the United States of America, having died,
" (reſigned, or otherwiſe, as the caſe may be) during the receſs of the legiſlature of the
" commonwealth, I, being governor or chief magiſtrate of the common-
" wealth, have therefore thought fit, by and with the advice and conſent of the privy coun-
" cil, or council of ſtate, and by virtue of the ſaid conſtitution, to appoint
" Eſquire, to be and act as ſenator for the commonwealth, until the next meeting of the le-
" giſlature thereof. Given under my hand and the ſeal of the commonwealth, this
" day of one thouſand ſeven hundred and "

SENATORS OF VIRGINIA. See General Aſſembly—See alſo Elections.

December the 12th, 1792.

§ I. FOR the regular election of ſenators to the general aſſembly, the counties of Accomack and Northampton, ſhall be one diſtrict; the counties of Norfolk, Princeſs-Anne, and Nanſemond, one other diſtrict; the counties of Surry, Iſle of Wight, and Prince George, one other diſtrict; the counties of Suſſex, Dinwiddie, and Southampton, one other diſtrict; the counties of Brunſwick, Lunenburg, Mecklenburg, and Greenſville, one other diſtrict; the counties of Charlotte, Halifax, and Prince Edward, one other diſtrict; the counties of Amelia, Cheſterfield, Cumberland, Nottoway, and Powhatan, one other diſtrict; the counties of Buckingham, Amherſt, Albemarle, and Fluvanna, one other diſtrict; the counties of Franklin, Pittſylvania, Campbell, Bedford, Henry, and Patrick, one other diſtrict; the counties of Wythe, Botetourt, Waſhington, Montgomery, Ruſſell, Greenbrier, and Kanawha, one other diſtrict; the counties of Elizabeth City, Warwick, and York, one other diſtrict; the counties of Charles City, James City, and New-Kent, one other diſtrict; the counties of Goochland, Henrico, and Louiſa, one other diſtrict; the counties of Hanover and Caroline, one other diſtrict; the counties of Auguſta, Rockingham, Rockbridge, Shenandoah, Pendleton, and Bath, one other diſtrict; the counties of Eſſex, King William, and King and Queen, one other diſtrict; the counties of Glouceſter, Middleſex, and Mathews, one other diſtrict; the counties of Lancaſter, Richmond, and Northumberland, one other diſtrict; the counties of King George, Weſtmoreland, and Stafford, one other diſtrict; the counties of Spottſylvania, Orange, and Culpeper, one other diſtrict; the counties of Fairfax and Prince William, one other diſtrict; the counties of Loudoun and Fauquier, one other diſtrict; the counties of Frederick, Berkeley, Hampſhire, and Hardy, one other diſtrict; the counties of Monongalia, Harriſon, Ohio, and Randolph, one other diſtrict.

II. All ordinances of convention, or acts of aſſembly, within the purview of this act, ſhall be, and the ſame are hereby repealed.

SERVANTS. See Guardians, Orphans, Committees, Infants, Maſters, and Apprentices.

SHERIFFS. See Executive—See alſo Taxes.

November the 23d, 1792.

§ I. THE court of every county within this commonwealth, ſhall in the month of June or July, annually, nominate to the governor or chief magiſtrate for the time being, three perſons named in the commiſſion of the peace, for ſuch county, one of which perſons ſo nominated, being approved by the governor, with the advice of the privy council, ſhall be commiſſioned by the governor, to execute the office of ſheriff in ſuch county. *(a)*

II. If the court of any county ſhall fail to nominate perſons for the office of ſheriff, within the periods above preſcribed, every juſtice ſo neglecting, ſhall forfeit and pay the ſum of two hundred dollars. *(b)*

III. If any perſon hereafter appointed ſheriff of any county, ſhall not within two months after his appointment, give bond and ſufficient ſecurity, for the true and faithful performance of his duty as ſheriff, and alſo for the collection of taxes, the clerk of the court of ſuch county ſhall, within one month thereafter, tranſmit to the governor for

(a) Oct 1783 c 2—1785 c 40 *(b)* 1784 c 51

the time being, a certificate of ſuch neglect or failure, under the penalty of three hundred dollars.

IV. If the perſon firſt commiſſioned to the ſaid office of ſheriff, ſhall fail to give bond in two months after his appointment, and the clerk ſhall certify the ſame as above required, or if the perſon firſt nominated ſhall fail to make application to the governor or chief magiſtrate, for a commiſſion, within one month after ſuch nomination, the governor, with advice of council, is hereby authoriſed and required to iſſue a commiſſion to ſome other perſon nominated by the court, which commiſſion, to all intents and purpoſes, ſhall ſuperſede and annul the former commiſſion; and if the perſon thereafter commiſſioned, or nominated as aforeſaid, ſhall be guilty of the like neglect, the governor, with the advice of the council, is hereby authoriſed and required, in either caſe, to commiſſion any other perſon or perſons nominated by the court, which laſt commiſſion ſhall in like manner ſuperſede the former. *(a)*

V. If any ſheriff ſhall die in the time of his ſheriffalty, the governor, with the advice of the council, may, and is hereby empowered and required, to commiſſion ſome other perſon nominated by the court, to be ſheriff in his room. *(b)*

VI. Every perſon hereafter commiſſioned and qualified as aforeſaid, ſhall be continued in office for one year after his qualification, and may, with his own conſent, and the approbation of the executive, be continued for two years, and no longer; unleſs by ſome accident or impediment, a ſucceeding ſheriff ſhall be prevented from qualifying, in which caſe the preceding ſheriff ſhall continue to act, until a ſucceſſor ſhall be qualified according to the directions of this act. *(c)*

VII. And whereas inconveniences and diſputes may ariſe, in caſe of the death of a ſheriff before his term of ſervice may expire, and in ſuch caſe the perſon appointed to ſucceed to the office of ſheriff, muſt ſerve one year from the time of ſuch appointment, if not continued for two years, with his own conſent, and with the approbation of the executive, and in that caſe for two years from ſuch appointment, which may occaſion the ſheriffs in different parts of the country, to be appointed at different periods of the year: When by the death of any ſheriff, another ſhall be appointed at any other time than in the months of June or July, the governor, with advice of council, may continue ſuch ſucceſſor in office, until the court to be held in the months of June or July next after his two years continuance therein, ſhall expire; any thing in this act to the contrary notwithſtanding. *(c)*

VIII. Every perſon accepting the commiſſion of ſheriff, ſhall, before his being ſworn into, or executing his office, enter into one bond before the juſtices of his county court, payable to the governor of this commonwealth, for the time being, and his ſucceſſors, for the uſe of this commonwealth, with good and ſufficient ſecurity, in the ſum of thirty thouſand dollars, for the true and faithful collecting, accounting for, and paying the taxes impoſed by law in his county; which bond every county court is hereby empowered and required to demand, take, and cauſe to be acknowledged before them in open court, and recorded: And an atteſted copy thereof ſhall be tranſmitted by the clerk to the auditor of public accounts, which ſhall be admitted as evidence in any ſuit, motion or proceeding founded thereon. *(d)*

IX. If upon the refuſal to act, or diſability of any ſheriff, it ſhall appear proper to the executive to appoint a collector, it ſhall be lawful for them to make ſuch appointment, and the perſon ſo appointed collector, ſhall give bond and ſecurity in the ſame manner as the ſheriffs do for duly collecting and accounting for the public revenue, and ſhall poſſeſs every power, and be liable to every penalty, which the ſheriff would have poſſeſſed, or been liable to.

X. Every perſon accepting the commiſſion of ſheriff, ſhall likewiſe enter into another

(a) Oct. 1784 c 59 § 1—1783 c 2 *(b)* 1784 c 6 *(c)* 1785 c 40 *(d)* 1785 c 2.

bond with two good and ſufficient ſecurities at the leaſt, in the ſum of , with a condition in the following form, to wit: *(a)*

"The condition of the above obligation is ſuch, that whereas the above bound A. B. is "conſtituted and appointed ſheriff of the county of , by a commiſſion from the "governor, under the ſeal of the commonwealth, dated the day of , laſt "paſt. If therefore, the ſaid A. B. ſhall well and truly collect all levies, and account for "and pay the ſame in ſuch manner as is by law directed, and alſo all fines, forfeitures and "amercements, accruing or becoming due to the commonwealth in the ſaid county, and "ſhall duly account for and pay the ſame to the treaſurer of this commonwealth for the "time being, for the uſe of the commonwealth, in like manner as is or ſhall be directed in "caſe of public taxes, and ſhall in all other things truly and faithfully execute the ſaid of-"fice of ſheriff, during his continuance therein, then the above obligation to be void, other-"wiſe to remain in full force and virtue."

And ſhall alſo enter into one other bond before ſuch court, with the like ſecurities, in the ſum of , with a condition in the following form, to wit:

"The condition of the above obligation is ſuch, that whereas the above bound A. B. is "conſtituted and appointed ſheriff of the county of , by commiſſion from the go-"verner under the ſeal of the commonwealth, dated the day of , laſt paſt. "If therefore, the ſaid A. B. ſhall well and truly collect and receive all officers fees and "dues put into his hands to collect, and duly account for and pay the ſame to the officers to "whom ſuch fees are due reſpectively, at ſuch times as are preſcribed and limited by law, "and ſhall well and truly execute, and due return make of all proceſs and precepts to him "directed, and pay and ſatisfy all ſums of money and tobacco by him received by virtue of "any ſuch proceſs, to the perſon or perſons to whom the ſame are due, his, or their execu-"tors, adminiſtrators or aſſigns; and in all other things ſhall truly and faithfully execute "and perform the ſaid office of ſheriff, during the time of his continuance therein, then the "above obligation to be void, otherwiſe to remain in full force and virtue."

XI. Which bonds ſhall be made payable to the governor or chief magiſtrate for the time being, and his ſucceſſors, and entered of record in the county court. And in the name of the governor or chief magiſtrate, or his ſucceſſors, any perſon or perſons injured may and ſhall at his, her, or their coſts and charges, commence and proſecute ſuits on ſuch laſt mentioned bond, againſt the parties therein bound, their executors or adminiſtrators, and ſhall and may recover all damages which he, ſhe, or they may have ſuſtained by rea-ſon of the breach of the condition of his bond; and ſuch bond ſhall not become void upon the firſt recovery, or if judgment ſhall be given againſt any plaintiff or plaintiffs, who ſhall ſue upon ſuch bond; but may be put in ſuit and proſecuted from time to time, for the be-nefit, and at the proper coſts and charges of any party injured, until the penalty expreſſed in ſuch bond ſhall be recovered. *Provided always*, That if any verdict or judgment ſhall paſs for ſuch ſheriff, or his ſecurity, the perſon at whoſe inſtance ſuch ſuit ſhall be brought or proſecuted, ſhall pay ſuch ſheriff or his ſecurity their coſts.

XII. No perſon whatſoever ſhall be capable to ſerve or execute the office of under-ſheriff, or deputy-ſheriff of any county, for any longer time than two years in any pe-riod of four years, unleſs he ſhall produce to the court of the county, ſatisfactory proof of his having collected and accounted for the taxes aſſigned to him by his former princi-pal. *(b)*

XIII. Every ſheriff, deputy-ſheriff, or collector, who ſhall hereafter receive from any perſon or perſons, any officers fees, dues, taxes, county levies, or poor rates, ſhall deli-ver to the perſon ſo paying, a fair and diſtinct account of the ſeveral articles for which he

(a) 1755 c 11—1787 c 40—1782 c 38. *(b)* 1772 c 15—1787 c 40.

ſhall receive the ſame, and alſo a receipt for what ſhall be ſo paid him; and every ſheriff, deputy-ſheriff, or collector, failing herein, ſhall forfeit and pay to the perſon by whom ſuch payment ſhall be made, the ſum of four dollars for each offence; to be recovered with coſts before any juſtice of the peace of the county, where ſuch ſheriff, deputy-ſheriff, or collector, ſhall reſide; and ſuch ſheriff or other officer ſhall moreover be liable to the party grieved for all damages he may ſuſtain, by means of ſuch officer's demanding and receiving a greater ſum than ſhall be really due; to be recovered by action of treſpaſs on the caſe, before any court of record within this commonwealth, in which action, where the plaintiff ſhall recover, he ſhall alſo recover full coſts.

XIV. Every ſheriff himſelf, or by his lawful officers, or deputies, ſhall from time to time execute all writs and other proceſs to him legally iſſued and directed, within his county, or upon any bay, river, or creek adjoining thereto, and ſhall make due return thereof, under the penalty of forfeiting twenty dollars for every failure; one moiety to the governor for the time being, for the better ſupport of the government, and the contingent charges thereof, and the other moiety to the party grieved; to be recovered with coſts by action of debt or information in any county court of this commonwealth; and ſuch ſheriff ſhall be further liable to the action of the party grieved at common law, for his or her damages; and for every falſe return, the ſheriff ſhall forfeit and pay ſixty dollars, to be recovered, divided and applied in the ſame manner as laſt mentioned; and ſhall alſo in like manner, be liable to the party grieved for damages. *(a)*

XV. No ſheriff ſhall return, upon any writ to him directed, that the defendant is not found in his bailiwick, unleſs ſuch ſheriff or other officer, ſhall have actually been at the dwelling houſe or place of abode of ſuch defendant, and not finding him, ſhall have there left an atteſted copy of the ſame writ or proceſs; and where any defendant ſhall be a known inhabitant of any county, and not of the county of that ſheriff to whom the proceſs ſhall be directed, ſuch ſheriff ſhall return the truth of the caſe, but not that the perſon is not found in his county, and thereupon ſuch proceſs iſſued from any county court clerk's office as to ſuch defendant, ſhall abate and be diſmiſſed.

XVI. *Provided always*, That it ſhall not be lawful for any ſheriff or other officer, to execute any writ or proceſs upon the Lord's day, commonly called Sunday, nor upon any perſon attending his duty at any muſter of militia, or any election of members of the ſtate legiſlature, or of that of the United States, or at any election for the appointment of electors to vote for a Preſident of the United States; nor on any perſon attending as a witneſs being duly ſummoned, at or on any order of ſurvey iſſued from any court, or as a witneſs attending on arbitration made by order of court, or attending commiſſioners appointed to take depoſitions in the caſe of conteſted elections; and that all proceſs ſo executed, ſhall be illegal and void, unleſs the ſame be iſſued againſt any perſon or perſons for treaſon, felony, riot, breach of the peace, or upon any eſcape out of priſon or cuſtody, and ſuch proceſs ſhall and may be executed at any time or place.

XVII. It ſhall not be lawful for any ſheriff or his officer, or deputy, to take any obligation of, or for any perſon or perſons in his cuſtody, for or concerning any matter relating to his office, otherwiſe payable than to himſelf as ſheriff, and diſchargeable upon the priſoner's appearance, and rendering himſelf at the day and place required in the writ, whereupon he was or ſhall be taken or arreſted: And every obligation by any ſheriff taken in other manner or form, by colour of his office, ſhall be null and void; except in any ſpecial caſe, any other obligation is or ſhall be by law particularly and expreſsly directed.

XVIII. No ſheriff of any county within this commonwealth, ſhall demand or take any other greater fee or reward whatſoever, nor ſhall have any allowance, reward, or ſatisfac-

(a) 1748 c 6.

tion from the public, for any ſervices or buſineſs by him done, other than the allowance given and provided by law; all other ſervices ſhall be by him done ex-officio.

XIX. Every ſheriff ſhall collect and receive the taxes due to the commonwealth, and ſhall alſo collect all levies, fines, forfeitures and amercements, and all officers fees, (and poor rates when appointed by the overſeers of the poor to collect the ſame) and ſhall account for and pay the ſame in the manner directed by law. (*a*)

XX. No ſheriff or other officer, nor any collector of taxes, levies, fines, forfeitures, amercements, or poor rates, or officers fees, ſhall at any time ſeize or diſtrain the ſlave or ſlaves of any perſon or perſons, if other ſufficient diſtreſs can be had, nor ſhall make or take unreaſonable ſeizures or diſtreſſes, upon penalty of being liable to the action of the party grieved, grounded upon this act, in which action the plaintiff ſhall recover his full coſts, although the damages given may not exceed ſeven dollars.

XXI. Where any perſon or perſons accuſed of treaſon, felony, or other capital crime, ſhall be committed to any county jail, and the ſheriff ſhall have cauſe to ſuſpect ſuch perwill attempt to eſcape, ſuch ſheriff is hereby empowered and required to impreſs ſufficient guard for ſecuring ſuch priſoner or priſoners, ſo long as he, ſhe, or they continue in the ſaid jail, to be paid by the public, after the rate of fifty cents for each man per day, in the ſame manner as the charges of ſummoning and holding courts, for the examination of criminals. (*b*)

XXII. And for removing all controverſies, touching the manner of turning over priſoners upon a ſheriffs quitting his office: The delivery of priſoners by indenture, between the old ſheriff and the new, or the entering upon record in the county court, the names of the ſeveral priſoners and cauſes of their commitment, delivered over to the new ſheriff, ſhall be ſufficient to diſcharge the late ſheriff from all ſuits or actions for any eſcape that ſhall happen afterwards.

XXIII. Every ſheriff ſhall have and may retain for all taxes, fines, forfeitures, and amercements, and all officer's fees, except clerks and ſurveyors fees and levies, an allowance of five per centum for collecting and paying the ſame, and no more.

XXIV. No ſheriff ſhall be obliged to go out of his county to pay money levied by execution, or to give notice to creditors at whoſe ſuit any perſon may be in cuſtody of ſuch ſheriff.

XXV. The high ſheriff of a county ſhall have the ſame remedy and judgment againſt his under ſheriff or deputy, or the ſecurities of ſuch under ſheriff or deputy, failing to pay the money by him received on any execution to the high ſheriff, or the party to whom the ſame is payable, his agent or attorney, or ſuffering any perſon in his cuſtody to eſcape, as the creditor at whoſe ſuit the writ iſſued, may have againſt the high ſheriff, or ſuch under ſheriff or deputy, or the ſecurities of ſuch under ſheriff or deputy. (*c*)

XXVI. And to prevent diſputes between ſheriffs and their ſeveral deputies, which of them may have acted in ſerving of executions or proceſs: When any under ſheriff hath ſerved any writ, execution, attachment, or other proceſs whatſoever, he ſhall endorſe on the back of ſuch writ, the day of the month he or they ſhall have ſerved the ſame, and ſubſcribe his name, as well as that of his principal, to the return of ſuch writ or other proceſs; and every under ſheriff failing herein, ſhall be liable to the ſame penalty as is by law inflicted on the ſheriff for a falſe return, and to be recovered and appropriated in the ſame manner.

XXVII. Where the ſheriff of any county heretofore hath, or hereafter ſhall appoint any perſon tobe his under ſheriff, to collect the taxes required by law in his county, and ſuch under ſheriff ſhall neglect, or refuſe to account for, and pay ſuch taxes to the ſheriff under whom he hath been or ſhall be appointed, or to the treaſurer at the time appointed for paying the ſame, it ſhall and may be lawful for the diſtrict court or court of the county whereof he

(*a*) 1748 c 6 (*b*) 1791 c 3 § 5 (*c*) 1763 c 5.

hath been, now is, or ſhall be ſheriff, upon motion to them made by ſuch ſheriff, his executors or adminiſtrators, to give judgment againſt ſuch under ſheriff, his ſecurities, their heirs, executors or adminiſtrators, for all the money wherewith he ſhall be chargeable, and five per centum damages, and five per centum intereſt thereon, and to award execution for the ſame; provided ſuch under ſheriff and his ſecurities, have ten days previous notice of ſuch motion: *Provided alſo*, That no execution ſhall be iſſued againſt an under ſheriff and his ſecurities, for the five per centum damages, and intereſt thereon, unleſs judgment ſhall have been obtained againſt the high ſheriff for the ſame. *(a)*

XXVIII. Whereſoever the lands of any ſheriff or collector would have been bound for any debt due to the commonwealth, they ſhall be bound in like manner, to the ſecurity or ſecurities who may have paid the whole or a part of ſuch debt, and it ſhall be lawful for the general court, or diſtrict courts to award a like execution againſt the ſaid lands, on the motion of ſuch ſecurities, to that which would have been iſſued on behalf of the commonwealth, provided that ten days previous notice ſhall be given to the principal, his heir or deviſee, as the caſe may be.

The repealing clauſe is, in ſubſtance, as in the appendix No. 7.

December the 11th, 1793.

§ I. WHEREAS the laws heretofore paſſed, have in many inſtances been found inadequate to indemnify the ſheriffs of this commonwealth againſt the conduct and default of their deputies, and in moſt caſes they have been obliged to ſubmit to a recovery firſt had and obtained againſt them before they could legally proceed againſt their deputies, whereby much injury and injuſtice has ariſen to the ſheriffs: Where any fine, amercement, penalty, or judgment, has been aſſeſſed or rendered, or which may be aſſeſſed or rendered againſt any ſheriff heretofore or now in office, or which may hereafter come into office, his heirs, executors, or adminiſtrators, for or on account of any default or miſconduct of any deputy of ſuch ſheriff, it ſhall and may be lawful for the court of the county, whereof ſuch ſheriff hath been, now is, or ſhall be ſheriff, or for the diſtrict court including ſuch county, upon motion to them made by ſuch ſheriff, his heirs, executors or adminiſtrators, to give judgment againſt ſuch deputy, and his ſecurities, their heirs, executors or adminiſtrators, for the full amount of all ſuch fines, amercements, penalties or judgments, and to award execution for the ſame; provided that ſuch deputy and his ſecurities, their heirs, executors or adminiſtrators have ten days previous notice of ſuch motion.

II. Where any deputy-ſheriff heretofore or now in office, or which may hereafter come into office, hath been or ſhall be found in arrears, for any money, tobacco or other thing received, or which ought to be received by ſuch deputy, by virtue of his office, and for which the principal of ſuch deputy, his heirs, executors or adminiſtrators, is or may be chargeable, and ſhall not immediately pay or deliver the ſame to the perſon or perſons entitled thereto, it ſhall and may be lawful for either of the ſaid courts, upon motion to them made by ſuch ſheriff, his heirs, executors or adminiſtrators, to give the ſame judgment againſt ſuch deputy, and his ſecurities, their heirs, executors or adminiſtrators, as ſuch ſheriff, his heirs, executors or adminiſtrators, might by motion againſt him or them, on account of ſuch arrears, miſconduct or default, be liable to, and to award execution for the ſame; provided that ſuch deputy and his ſecurities, their heirs, executors or adminiſtrators, have ten days previous notice of ſuch motion. *Provided nevertheleſs*, That no deputy-ſheriff, his heirs, executors or adminiſtrators, ſhall be ſubject to a motion made by the principal of ſuch deputy, his heirs, executors or adminiſtrators, where a recovery has been had, or may be obtained againſt ſuch deputy-ſheriff, his heirs, executors or adminiſtrators, by any perſon or perſons whatſoever, before ſuch motion.

(a) May 1780 c 11.

III. On all executions iſſuing on judgments obtained by any ſheriff heretofore, or now in office, or which may hereafter come into office, his heirs, executors or adminiſtrators, againſt any deputy heretofore or now in office, or which may hereafter come into office, and his ſecurities, their heirs, executors or adminiſtrators, or either of them, the clerk iſſuing ſuch execution, ſhall, for the direction of the officer, to whom the ſame is directed, endorſe, that "no ſecurity is to be taken," and ſuch officer on levying the ſame, ſhall govern himſelf accordingly.

The repealing clauſe is, in ſubſtance, as in the appendix No. 2.

SHOOTING. See Maiming.

SICK SEAMEN, SICK SERVANTS. } *See Ballaſt, Dead Bodies, Sick and Diſabled Seamen and Servants.*

SLOPES. See Mill-Dams.

SLAVES, FREE NEGROES, AND MULATTOES.

December the 17th, 1792—but commenced Oct. 1, 1793.

§ I. NO perſons ſhall henceforth be ſlaves within this commonwealth, except ſuch as were ſo on the ſeventeenth day of October, in the year one thouſand ſeven hundred and eighty five, and the deſcendants of the females of them. *(a)*

II. Slaves which ſhall hereafter be brought into this commonwealth, and kept therein one whole year together, or ſo long at different times as ſhall amount to one year, ſhall be free *(a)*.

III. Every perſon hereafter importing ſlaves into this commonwealth, contrary to this act, ſhall forfeit and pay the ſum of two hundred dollars for every ſlave ſo imported; and every perſon ſelling or buying any ſuch ſlaves, ſhall in like manner forfeit and pay the ſum of one hundred dollars for every ſlave ſo ſold or bought; one moiety of which forfeitures ſhall be to the uſe of the commonwealth, and the other moiety to him or them that will ſue for the ſame; to be recovered by action of debt or information in any court of record. *(b)*

IV. *Provided*, That nothing in this act contained, ſhall be conſtrued to extend to thoſe who may incline to remove from any of the United States and become citizens of this, if within ſixty days after ſuch removal he or ſhe ſhall take the following oath before ſome juſtice of the peace of this commonwealth:

"I, A. B. do ſwear, that my removal into the ſtate of Virginia, was with no intent of "evading the laws for preventing the further importation of ſlaves, nor have I brought "with me any ſlaves, with an intention of ſelling them, nor have any of the ſlaves which "I have brought with me, been imported from Africa, or any of the Weſt-India Iſlands, "ſince the firſt day of November, one thouſand ſeven hundred and ſeventy-eight. So help "me God."

Nor to any perſons claiming ſlaves by deſcent, marriage or deviſe; nor to any citizens of this commonwealth, being now the actual owners of ſlaves within any of the United States

(a) 1785 c 77 § 1. (b) Oct. 1788 c 1 § 2

and removing ſuch hither: nor to travellers and others making a traſident ſtay, and bringing ſlaves for neceſſery attendance, and carrying them out again. (*a*)

V. No negro or mulatto ſhall be a witneſs, except in pleas of the commonwealth againſt negroes or mulattoes, or in civil pleas, where negroes or mulattoes alone ſhall be parties. (*b*)

VI. No ſlave ſhall go from the tenements of his maſter or other perſon with whom he lives, without a paſs, or ſome letter or token, whereby it may appear that he is proceeding by authority from his maſter, employer, or overſeer: If he does, it ſhall be lawful for any perſon to apprehend and carry him before a juſtice of the peace, to be by his order puniſhed with ſtripes, or not, in his diſcretion. (*c*)

VII. And if any ſlave ſhall preſume to come and be upon the plantation of any perſon whatſoever, without leave in writing from his or her owner, or overſeer, not being ſent upon lawful buſineſs, it ſhall be lawful for the owner or overſeer of ſuch plantation, to give or order ſuch ſlave ten laſhes on his or her bare back for every ſuch offence. (*d*)

VIII. No negro or mulatto whatſoever ſhall keep or carry any gun, powder, ſhot, club, or other weapon whatſoever, offenſive or defenſive, but all and every gun, weapon, and ammunition found in the poſſeſſion or cuſtody of any negro or mulatto, may be ſeized by any perſon, and upon due proof thereof made before any juſtice of the peace of the county or corporation where ſuch ſeizure ſhall be, ſhall by his order be forfeited to the ſeizor for his own uſe; and moreover, every ſuch offender ſhall have and receive by order of ſuch juſtice, any number of laſhes not exceeding thirty-nine, on his or her bare back, well laid on, for every ſuch offence. (*e*)

IX. *Provided nevertheleſs*, That every free negro or mulatto, being a houſe-keeper, may be permitted to keep one gun, powder and ſhot; and all negroes and mulattoes, bond or free, living at any frontier plantation, may be permitted to keep and uſe guns, powder, ſhot, and weapons, offenſive and defenſive, by licenſe from a juſtice of peace of the county wherein ſuch plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of ſuch as are ſlaves. (*f*)

X. Every perſon other than a negro, of whoſe grand-fathers or grand-mothers any one is, or ſhall have been a negro, although all his other progenitors, except that deſcending from the negro, ſhall have been white perſons, ſhall be deemed a mulatto; and ſo every ſuch perſon who ſhall have one fourth part or more of negro blood, ſhall in like manner be deemed a mulatto. (*g*)

XI. Riots, routs, unlawful aſſemblies, treſpaſſes and ſeditious ſpeeches by a ſlave or ſlaves, ſhall be puniſhed with ſtripes, at the diſcretion of a juſtice of the peace, and he who will, may apprehend and carry him, her, or them, before ſuch juſtice. (*h*)

XII. And to prevent the inconveniences ariſing from the meetings of ſlaves, if any maſter, miſtreſs, or overſeer of a family, ſhall knowingly permit or ſuffer any ſlave not belonging to him or her, to be and remain upon his or her plantation above four hours at any one time, without leave of the owner or overſeer of ſuch ſlave, he or ſhe ſo permitting, ſhall forfeit and pay three dollars for every ſuch offence; and every owner or overſeer of a plantation, who ſhall ſo permit or ſuffer more than five negroes or ſlaves, other than his or her own, to be and remain upon his or her plantation or quarter at any one time, ſhall forfeit and pay one dollar for each negro or ſlave above that number; which ſaid ſeveral forfeitures ſhall be to the informer, and recoverable with coſts, before any juſtice of peace of the county or corporation where ſuch offence ſhall be committed. (*i*)

XIII. *Provided always*, That nothing herein contained, ſhall be conſtrued to prohibit the negroes or ſlaves of one and the ſame owner, though ſeated at different quarters, from meeting, with their owner's or overſeer's leave, upon any plantation to ſuch owner belonging, nor to reſtrain the meeting of ſlaves on their owner's or overſeer's buſineſs at any

(*a*) 1785 c 77 § 5 (*b*) 1785 c 77 § 2. (*c*) 1785 c 77 § 3 (*d*) 22 Geo. II. c 31 § 17 (*e*) 22 Geo. II. c 31 § 18 (*f*) 22 Geo. II. c 31 § 19 (*g*) 1785 c 77 (*h*) 1785 c 77 § 4 (*i*) 22 Geo. II. c 31 § 13.

public mill, ſo as ſuch meeting be not in the night time, nor on a Sunday, nor to prohibit their meeting on any other lawful occaſion, by licenſe in writing from their owner or overſeer, nor their going to church and attending divine ſervice on the Lord's day or any other day of public worſhip. (*a*)

XIV. If any white perſon, free negro, mulatto, or Indian, ſhall at any time be found in company with ſlaves at any unlawful meeting, or ſhall harbour or entertain any ſlave without the conſent of his or her owner, ſuch perſon being thereof convicted before any juſtice of the peace, ſhall forfeit and pay three dollars for every ſuch offence to the informer, recoverable with coſts before ſuch juſtice; or on failure of preſent payment, ſhall receive on his or her bare back twenty laſhes, well laid on, by order of the juſtice before whom ſuch conviction ſhall be. (*b*)

XV. And every juſtice of peace upon his own knowledge of ſuch unlawful meeting, or information thereof to him made within ten days after, ſhall iſſue his warrant to apprehend the perſons ſo met or aſſembled, and cauſe them to be brought before himſelf, or any other juſtice of his county or corporation, to be dealt with as this act directs; and every juſtice failing herein, ſhall forfeit and pay eight dollars for every ſuch failure; and every ſheriff, or other officer, who ſhall fail upon knowledge or information of ſuch meeting, to endeavour to ſuppreſs the ſame, and bring the offenders before ſome juſtice of peace to receive due puniſhment, ſhall be liable to the like penalty of eight dollars; both which penalties ſhall be to the informer, and recoverable with coſts by action of debt in any county or corporation court; and every under-ſheriff, ſerjeant, or conſtable, who upon knowledge or information of ſuch meeting, ſhall fail to perform his duty in ſuppreſſing the ſame, and apprehending the perſons ſo aſſembled, ſhall forfeit and pay four dollars for every ſuch failure to the informer, recoverable with coſts, before any juſtice of the county or corporation wherein ſuch failure ſhall be. (*c*)

XVI. No perſon whatſoever ſhall buy, ſell, or receive of, to, or from a ſlave, any commodity whatſoever, without the leave or conſent of the maſter, owner, or overſeer of ſuch ſlave. And if any perſon ſhall preſume to deal with any ſlave without ſuch leave or conſent, he or ſhe ſo offending, ſhall forfeit and pay to the maſter or owner of ſuch ſlave, four times the value of the thing ſo bought, ſold, or received, to be recovered with coſts, by action upon the caſe in any court of record within this commonwealth, and ſhall alſo forfeit and pay the further ſum of twenty dollars to any perſon who will ſue for the ſame; to be recovered with coſts, by ſummons and petition in the ſame manner as other debts not exceeding twenty dollars, nor under five dollars, in any court of record, or receive on his or her bare back thirty-nine laſhes, well laid on, at the public whipping-poſt, but ſhall nevertheleſs be liable to pay the coſts of ſuch ſummons and petition. (*d*)

XVII. If any negro or mulatto, bond or free, ſhall at any time lift his or her hand in oppoſition to any perſon not being a negro or mulatto, he or ſhe ſo offending, ſhall, for every ſuch offence, proved by the oath of the party before a juſtice of the peace of the county or corporation, where ſuch offence ſhall be committed, receive ſuch puniſhment as the juſtice ſhall think proper, not exceeding thirty laſhes, on his or her bare back, well laid on, except in thoſe caſes when it ſhall appear to ſuch juſtice, that ſuch negro or mulatto was wantonly aſſaulted, and lifted his or her hand in his or her defence. (*e*)

XVIII. It ſhall not be lawful for any county or corporation court to order and direct caſtration of any ſlave, except ſuch ſlave ſhall be convicted of an attempt to raviſh a white woman, in which caſe they may inflict ſuch puniſhment. (*e*)

XIX. *Provided always*, That nothing herein before contained ſhall be conſtrued to bar the action of any perſon whoſe ſlave or ſlaves ſhall be killed by any other perſon or perſons whatſoever, or ſhall die through the negligence of any ſurgeon or other perſon under-

(*a*) 22 Geo. II. c 31 § 14. (*b*) 22 Geo. II. c 31 § 15. (*c*) 22 Geo. II. c 31 § 16. (*d*) 1785 c 77 § 6. (*e*) 22 Geo. II. c 31 § 3.

taking the diſmembering or cure of any ſlave ſo puniſhed by order of court; but every owner ſhall and may have the ſame remedy for the death and loſs of his or her ſlave or ſlaves, as he or ſhe might have had if this act had never been made. (*a*)

XX. And whereas many times ſlaves runaway and lie out hid and lurking in ſwamps, woods, and other obſcure places, killing hogs, and committing other injuries to the inhabitants of this commonwealth; in all ſuch caſes, upon intelligence given of two or more ſlaves lying out as aforeſaid, any two juſtices of the peace of the county wherein the ſlaves are ſuppoſed to lurk or do miſchief, ſhall be, and are empowered and required by warrant, reciting their names and owners names if known, to direct the ſheriff of the ſaid county to take ſuch power with him, as he ſhall think fit and neceſſary for the effectual apprehending ſuch out-lying ſlave or ſlaves, and go in ſearch of them, and upon their being apprehended to commit them to the jail of his county for further trial. (*a*)

XXI. If any negro or other ſlave ſhall at any time conſult, adviſe, or conſpire to rebel, or make inſurrection, or ſhall plot or conſpire the murder of any perſon or perſons whatſoever, every ſuch conſulting, plotting, or conſpiring, ſhall be adjudged and deemed felony, and the ſlave or ſlaves convicted thereof, in manner hereinafter directed, ſhall ſuffer death, and be utterly excluded all benefit of clergy. (*a*)

XXII. If any negro or other ſlave ſhall prepare, exhibit, or adminiſter any medicine whatſoever, he or ſhe ſo offending, ſhall be judged guilty of felony, and ſuffer death without benefit of clergy. (*a*)

XXIII. *Provided always*, That if it ſhall appear to the court before whom ſuch ſlave ſhall be tried, that the medicine was not prepared, exhibited, or adminiſtered with an ill intent, nor attended with any bad conſequences, ſuch ſlave ſhall be acquitted. (*a*)

XXIV. *And provided alſo*, That nothing herein contained ſhall be conſtrued to extend to any ſlave or ſlaves adminiſtering medicines by his or her maſter's or miſtreſs's order in his or her family, or the family of another, with the mutual conſent of the owner of ſuch ſlave, and the maſter or miſtreſs of ſuch family. (*a*)

XXV. If any maſter or owner of a ſlave ſhall licenſe ſuch ſlave to go at large, and trade as a freeman, the maſter or owner ſhall forfeit and pay the ſum of thirty dollars for the uſe of the poor of the diſtrict where ſuch ſlave ſhall be found going at large and trading as aforeſaid, to be recovered by the overſeers of the poor, by action of debt, in any court of record within this commonwealth; and if after conviction ſuch ſlave ſhall be found ſo going at large and trading, the maſter or owner ſhall again be liable to the like penalty, to be recovered as aforeſaid, and ſo as often after conviction, as ſuch ſlave ſhall be found ſo going at large and trading. (*b*)

XXVI. If any perſon ſhall permit or ſuffer his or her ſlave to go at large, or hire him or herſelf out, it ſhall be lawful for any perſon to apprehend and carry every ſuch ſlave before a juſtice of peace in the county or corporation where apprehended, and if it ſhall appear to the juſtice that ſuch ſlave comes within the purview of this act, he ſhall order him or her to the jail of the county or corporation, there to be ſafely kept until the next court, when, if it ſhall be made appear to the court that the ſlave ſo ordered to jail hath been permitted or ſuffered to hire him or herſelf out, contrary to the meaning of this act, it ſhall be lawful for the court, and they are hereby required, to order the ſheriff or other officer of the county or corporation, to ſell and diſpoſe of every ſuch ſlave for ready money, at the next court held for the ſaid county or corporation, notice being given by the ſheriff or other officer at the courthouſe door, at leaſt twenty days before the ſaid ſale. (*c*)

XXVII. Twenty-five per centum upon the amount of the ſale of every ſlave ſo going at large or hiring out himſelf or herſelf, ſhall be applied by the court ordering ſuch ſale towards leſſening the county levy, and the reſidue ſhall be paid by the ſheriff or other of-

(*a*) 22 Geo. II. c 31 § 2 (*b*) 10 Geo. III. c 19 § 8 (*c*) May 1782 c 32 § 1.

ficer, after deducting five per centum for his trouble, and the jailor's fees, to the owner of ſuch ſlave. (a)

XXVIII. If any perſon ſhall hereafter be guilty of ſtealing or ſelling any free perſon for a ſlave, knowing the ſaid perſons ſo ſold to be free, and thereof ſhall be lawfully convicted, the perſon ſo convicted ſhall ſuffer death without the benefit of clergy. (b)

XXIX. If any perſon or perſons ſhall ſteal any negro or mulatto whatſoever out of, or from the poſſeſſion of the owner or overſeer of ſuch ſlave, the perſon or perſons ſo offending, ſhall be, and are hereby declared to be felons, and ſhall ſuffer death without benefit of clergy. (c)

XXX. The juſtices of every county or corporation, ſhall be juſtices of oyer and terminer for trying ſlaves charged with treaſon or felony, which trials ſhall be by five at leaſt, without juries, upon legal evidence, at ſuch times as the ſheriffs or other officers ſhall appoint, not being leſs than five, nor more than ten days after the offenders have been committed to jail. No ſlave ſhall be condemned in any ſuch caſe, unleſs all the juſtices ſitting upon his or her trial ſhall agree in opinion that the priſoner is guilty, after allowing him or her counſel in his or her defence, whoſe fee, amounting to five dollars, ſhall be paid by the owner of the ſlave: *Provided always*, That when judgment of death ſhall be paſſed upon any ſuch offender, there ſhall be thirty days at leaſt between the time of paſſing judgment and the day of execution, except in caſes of conſpiracy, inſurrection or rebellion. (d)

XXXI. The value of a ſlave condemned to die, who ſhall ſuffer accordingly, or before execution of the ſentence, periſh, to be eſtimated by the juſtices triers, ſhall be paid by the public to the owner. One being detained in ſlavery, and having commenced an action to aſſert his freedom, ſhall be proſecuted and tried for any ſuch crime in the ſame manner as a freeman ought to be proſecuted and tried.

XXXII. No perſon having intereſt in a ſlave, ſhall ſit upon the trial of ſuch ſlave.

XXXIII. And for a declaration of what ſhall be deemed to be legal evidence in ſuch caſes, the court may take for evidence the confeſſion of the offender, the oath of one or more credible witneſſes, or ſuch teſtimony of negroes or mulattoes, bond or free, with pregnant circumſtances, as to them ſhall ſeem convincing. (e)

XXXIV. When any negro or mulatto whatſoever, ſhall be convicted of any offence, within the benefit of clergy, judgment of death ſhall not be given againſt him or her upon ſuch conviction, but he or ſhe ſhall be burnt in the hand by the jailor in open court, and ſuffer ſuch other corporal puniſhment as the court ſhall think fit to inflict, except where he or ſhe once had the benefit of this act, and in thoſe caſes ſuch negro or mulatto ſhall ſuffer death without the benefit of clergy. (f)

XXXV. Where any negro or mulatto ſhall be found upon due proof made, to any county or corporation court of this commonwealth, to have given a falſe teſtimony, every ſuch offender ſhall, without further trial, be ordered by the ſaid court to have one ear nailed to the pillory, and there to ſtand for the ſpace of one hour, and then the ſaid ear to be cut off, and thereafter the other ear nailed in like manner, and cut off at the expiration of one other hour, and moreover to receive thirty-nine laſhes on his or her bare back, well laid on, at the public whipping-poſt, or ſuch other puniſhment as the court ſhall think proper, not extending to life or limb; and at every ſuch trial of ſlaves for capital offences, the perſon firſt named in the commiſſion then ſitting, ſhall, before the examination of any negro or mulatto, not being a chriſtian, charge ſuch evidence to declare the truth; which charge ſhall be in the words following, to wit:

"You are brought hither as a witneſs, and by the direction of the law I am to tell you, "before you give your evidence, that you muſt tell the truth, the whole truth, and nothing

(a) May 1782 c 32 § 1 (b) 1787 c 37 § 2 (c) 27 Geo. II. c 2 § 28 (d) 1788 c 58—1790 c 64 § 1
(e) 22 Geo. II. c 31 § 6 (f) 22 Geo. II. c 31 § 8.

"but the truth; and that if it be found hereafter that you tell a lie, and give falſe teſtimo-
"ny in this matter, you muſt, for ſo doing, have both your ears nailed to the pillory and
"cut off, and receive thirty-nine lathes on your bare back, well laid on, at the common
"whipping-poſt." *(a)*

XXXVI. It ſhall be lawful for any perſon by his or her laſt will and teſtament, or by any other inſtrument in writing, under his or her hand and ſeal, atteſted and proved in the county or corporation court by two witneſſes, or acknowledged by the party in the court of the county where he or ſhe reſides, to emancipate and ſet free his or her ſlaves, or any of them, who ſhall thereupon be entirely and fully diſcharged from the performance of any contract entered into during ſervitude, and enjoy as full freedom as if they had been particularly named and freed by this act *(b)*

XXXVII. *Provided nevertheleſs*, That all ſlaves ſo emancipated ſhall be liable to be taken by execution, to ſatisfy any debt contracted by the perſon emancipating them before ſuch emancipation is made. *(b)*

XXXVIII *Provided always*, That all ſlaves ſo ſet free, not being, in the judgment of the court, of ſound mind and body, or being above the age of forty-five years, or being males under the age of twenty one, or females under the age of eighteen years, ſhall reſpectively be ſupported and maintained by the perſon ſo liberating them, or by his or her eſtate; and upon neglect or refuſal ſo to do, the court of the county or corporation where ſuch neglect or refuſal may be, is hereby empowered and required, upon application to them made, to order the ſheriff or other officer, to diſtrain and ſell ſo much of the perſon's eſtate, as ſhall be ſufficient for that purpoſe *(b)*

XXXIX *Provided alſo*, That every perſon by written inſtrument in his lifetime, or, if by laſt will and teſtament, the executors of every perſon freeing any ſlave, ſhall cauſe to be delivered to him or her a copy of the inſtrument of emancipation, atteſted by the clerk of the court of the county or corporation, who ſhall be paid therefor by the perſon emancipating, eighty-three cents, to be collected in the manner of other clerk's fees. Every perſon neglecting or refuſing to deliver to any ſlave by him or her ſet free, ſuch copy, ſhall forfeit and pay thirty dollars; to be recovered with coſts in any court of record, one half thereof to the perſon ſuing for the ſame, and the other to the perſon to whom ſuch copy ought to have been delivered. *(b)*

XL. It ſhall be lawful for any juſtice of the peace to commit to the jail of his county or corporation, any emancipated ſlave travelling out of the county of his or her reſidence, without a copy of the inſtrument of his or her emancipation, there to remain till ſuch copy is produced and the jailor's fees paid. *(b)*

XLI. In caſe any ſlave ſo liberated, ſhall neglect in any year to pay all taxes and levies impoſed, or to be impoſed by law, the court of the county or corporation ſhall order the ſheriff or ſerjeant to hire out him, or her, for ſo long time as will raiſe the ſaid taxes and levies, provided ſufficient diſtreſs cannot be made upon his or her eſtate. *(b)*

XLII. Saving nevertheleſs to all and every perſon and perſons, bodies politic or corporate, and their heirs and ſucceſſors, other than the perſon or perſons, claiming under thoſe ſo emancipating their ſlaves, all ſuch right and title as they, or any of them, could or might claim if this act had never been made.

XLIII. All negro and mulatto ſlaves in all courts of judicature within this commonwealth, ſhall be held, taken and adjudged to be perſonal eſtate.

XLIV. If any widow poſſeſſed of a ſlave or ſlaves, as of the dower of her huſband, ſhall remove or voluntarily permit to be removed out of this commonwealth, ſuch ſlave or ſlaves,

(a) 22 Geo. II c 31 § 3. *(b)* May 1782 c 21.

or any of their increaſe, without the conſent of him or her in reverſion, ſuch widow ſhall forfeit all and every ſuch ſlave or ſlaves, and all other the dower which ſhe holds of the endowment of her huſband's eſtate, unto the perſon or perſons that ſhall have the reverſion thereof; any law, cuſtom or uſage to the contrary notwithſtanding. *(a)*

XLV. If any widow poſſeſſed as aforeſaid, ſhall be married to a huſband, who ſhall remove, or voluntarily permit to be removed out of this commonwealth, any ſuch ſlave or ſlaves, or any of their increaſe, without the conſent of him or her in reverſion, in ſuch caſe it ſhall be lawful for him or her in reverſion to enter into, poſſeſs, and enjoy all the eſtate which ſuch huſband holdeth in right of his wife's dower, for and during the life of the ſaid huſband. *(b)*

XLVI. Where one or more ſlaves ſhall deſcend from a perſon dying inteſtate, and an equal diviſion thereof cannot be made in kind, on account of the nature of the property, it ſhall be lawful for the high court of chancery, or the court of the county or corporation, by which the adminiſtration to the eſtate of the inteſtate was granted, to direct the ſale of ſuch ſlave or ſlaves, and the diſtribution of the money ariſing therefrom, according to the rights of each claimant: *Provided always*, That each claimant ſhall be firſt duly ſummoned to ſhew cauſe, if any he can, againſt ſuch ſale. *(c)*

XLVII. No gift or gifts of any ſlave or ſlaves, ſhall be good or ſufficient to paſs any eſtate in ſuch ſlave or ſlaves, to any perſon or perſons whatſoever, unleſs the ſame be made by will, duly proved and recorded, or by deed, in writing, to be proved by two witneſſes at the leaſt, or acknowledged by the donor and recorded in the diſtrict court, or the court of the county or corporation where one of the parties lives, within eight months after the date of ſuch deed or writing. *(d)*

XLVIII. This act ſhall be conſtrued to extend only to gifts of ſlaves, whereof the donors have, notwithſtanding ſuch gifts, remained in the poſſeſſion, and not to gifts of ſuch ſlaves as have at any time come into the actual poſſeſſion of, and have remained with the donee, or ſome perſon claiming under ſuch donee. *(e)*

XLIX. *Provided always*, That nothing in this act contained, ſhall be conſtrued to alter any adjudication heretofore made, nor to affect the intereſt of any bona fide purchaſer, for a valuable conſideration, or creditor of the donor, before the donee hath been at leaſt three years in poſſeſſion of the ſlave or ſlaves, under ſuch gift, nor in any maner to reſtrain or affect the operation of the act of limitation. *(f)*

L. No maſter of any ſhip, or any other veſſel, ſhall tranſport or carry any ſervant whatſoever, or any negro, mulatto, or other ſlave out of this commonwealth, without the conſent or permiſſion of the perſon or perſons to whom ſuch ſervant or ſlave doth of right belong, upon penalty of forfeiting and paying one hundred and fifty dollars, for every ſervant, and three hundred dollars for every ſlave tranſported or carried hence, contrary to this act; one moiety to the commonwealth, and the other moiety to the owner of ſuch ſervant or ſlave, to be recovered with coſts, by action of debt or information, in any court of record of this commonwealth; and moreover, ſuch maſter ſhall be liable to the ſuit of the party grieved, at the common law, for his or her damages. *(g)*

LI. In any action which ſhall be brought againſt the maſter of a ſhip or veſſel under this act, the court wherein the ſame ſhall be depending, may rule the defendant to give ſpecial bail, if they ſee cauſe, and ſhall not allow him to plead in bar, or give in evidence any act or ſtatute of limitation; any former or other law to the contrary, notwithſtanding. *(h)*

The repealing clauſe is, in ſubſtance, as in the appendix No. 15.

(a) 1785 c 61 § 22 *(b)* 1785 c 61 § 23 *(c)* 1790 c 13 § 2 *(d)* 1758 c 1 § 1. *(e)* 1787 c 22 § 2 *(f)* 1787 c 22 § 3 *(g)* 22 Geo. II. c 17 § 1 *(h)* 22 Geo. II. c 17 § 2.

December the 12th, 1793—but commenced Jan. 1, 1794.

§ I. IT ſhall not be lawful for any free negro or mulatto to migrate into this commonwealth, and every free negro or mulatto who ſhall come into this commonwealth contrary to this act, ſhall and may be apprehended and carried by any citizen before ſome juſtice of the peace of the county where he ſhall be taken; which juſtice is hereby authoriſed to examine, ſend and remove every ſuch free negro or mulatto out of this commonwealth, into the ſtate or iſland from whence it ſhall appear he or ſhe laſt came; and for this purpoſe, the ſheriff or other officer, and other perſons, may by ſuch juſtice be employed within the commonwealth, upon the ſame terms as are by law directed in the removal of criminals from one county to another. And every free negro or mulatto who ſhall come or be brought into this commonwealth by water from any country, ſtate or iſland, may and ſhall be exported to the place from whence he or ſhe came, or was brought, and the charges attending the ſame ſhall be paid by the importer; to be recovered by motion in the name of the commonwealth, upon ten days previous notice thereof in any court of record.

II. Every maſter of a veſſel, or other perſon who ſhall bring into this commonwealth by water or by land, in any veſſel, boat, land carriage, or otherwiſe, any free negro or mulatto, ſhall forfeit and pay for every ſuch perſon ſo brought, the penalty of one hundred pounds lawful money; one half to the commonwealth, and the other half to the perſon who ſhall inform thereof; to be recovered by action of debt or information in any court of record, and the defendant in every ſuch caſe ſhall be ruled to give ſpecial bail.

III. This act ſhall not extend to maſters of veſſels bringing into this ſtate any free negro or mulatto employed on board and belonging to ſuch veſſel, and who ſhall therewith depart, nor to any perſon travelling into this ſtate, having any free negro or mulatto as a ſervant.

IV. In caſe any ſlave ſhall be brought or come into this ſtate from Africa or the Weſt-India iſlands, directly or indirectly, upon information thereof given to any juſtice of the peace, it ſhall be his duty to cauſe ſuch ſlave to be apprehended immediately and tranſported out of this commonwealth, and the expence attending ſuch tranſportation, ſhall be paid by the perſon importing ſuch ſlave, recoverable in the name of the juſtice directing ſuch ſlave to be tranſported, by warrant before a ſingle magiſtrate.

December the 25th, 1795—but commenced Jan. 1, 1796.

§ I. WHEREAS great and alarming miſchiefs have ariſen in other ſtates of this union, and are likely to ariſe in this by voluntary aſſociations of individuals, who, under cover of effecting that juſtice towards perſons unwarrantly held in ſlavery, which the ſovereignty and duty of ſociety alone ought to afford; have in many inſtances been the means of depriving maſters of their property in ſlaves, and in others occaſioned them heavy expences in tedious and unfounded law ſuits. To the end that a plain and eaſy mode may be pointed out by law for the recovery of freedom where it is unjuſtly and illegally denied, and that all ſuch practices may in future be made uſeleſs and puniſhed:

II. When any perſon ſhall conceive himſelf or herſelf illegally detained as a ſlave in the poſſeſſion of another, it ſhall and may be lawful for ſuch perſon to make complaint thereof either to a magiſtrate out of court, or to the court of the diſtrict, county, or corporation where he or ſhe ſhall reſide, and not elſewhere. When the complaint ſhall be made to a magiſtrate of ſuch illegal detention, it ſhall be the duty of the ſaid magiſtrate forthwith to iſſue his warrant, ſummoning the owner or poſſeſſor of ſuch complainant to appear before him or ſome other magiſtrate of the county, to anſwer the complaint ſo made, and upon his appearance ſhall compel him to give bond with ſecurity, equal at leaſt to the full value of ſuch complainant, conditioned that he ſhall ſuffer him or her to appear at the

next court to be held for the diſtrict, county, or corporation wherein he or ſhe reſides, for the purpoſe of petitioning the ſaid court to be allowed to ſue therein in forma pauperis for the recovery of his or her freedom, and if ſuch owner or holder ſhall fail or deny to give ſecurity as aforeſaid, ſuch magiſtrate ſhall order the complainant into the cuſtody of the officer having the warrant, to be kept by him ſafely at the expence of ſuch maſter or holder, until the ſitting of the ſaid court that ſhall happen after ſuch judgment by him given, and produce him or her before ſuch court.

III. When a petition ſhall be offered to the court of any diſtrict, county, or corporation, by any perſon or perſons ſo complaining, it ſhall ſtate the material facts of the caſe, which being proved by affidavit or otherwiſe, to the ſatisfaction of ſuch court, the petitioner ſhall obtain counſel, to be aſſigned by the ſaid court, who, without fee or reward, ſhall proſecute the ſuit of ſuch complainant: But before proceſs ſhall iſſue upon the ſaid petition, the counſel ſo appointed ſhall make an exact ſtatement to the court, of the circumſtances of the caſe, with his opinion thereupon, and unleſs from ſuch circumſtances and opinion, the court ſhall ſee manifeſt reaſon to deny their interference, they ſhall order their clerk to iſſue proceſs againſt the owner, to appear and anſwer the complaint, and in the mean time, that ſuch complainant ſhall be in cuſtody of the ſheriff, until the owner ſhall give bond with ſecurity, either in court, or with the clerk of the court, to have him or her forthcoming to anſwer the judgment of the court; in which caſe the complainant ſhall be returned into poſſeſſion of the owner.

IV. If any perſon or perſons, ſhall be found aiding, abetting, or maintaining any perſon in the proſecution of a ſuit upon a petition as aforeſaid, and ſuch perſon or perſons, ſhall fail to eſtabliſh his or their claim to freedom, every perſon ſo found aiding, abetting, or maintaining, ſhall forfeit and pay to the owner of ſuch ſlave, or to the perſon who ſhall proſecute for the ſame, the ſum of one hundred dollars, for every perſon ſo complaining, to be recovered by action of debt or information in any court of record within this commonwealth, and moreover be liable to an action on the caſe for damages ariſing therefrom, to the party grieved thereby.

V. And whereas it is doubted whether a widow who ſhall within one year from the death of her huſband, declare, in the manner preſcribed by law, that ſhe will not take or accept the proviſion made for her by her huſband's will, or any part thereof, and renounce all benefit which ſhe might claim by the ſame will, be entitled to one third part of the ſlaves whereof her huſband died poſſeſſed, and which by his will are directed to be emancipated and ſet free;—for removing ſuch doubts in future, and for a plain declaration of the law herein, in all ſuch caſes the widow ſhall be entitled to one third part of the ſlaves whereof her huſband died poſſeſſed, notwithſtanding they may be emancipated by his will: *Provided nevertheleſs*, That where part of the ſlaves only ſhall be emancipated, the widow's part ſhall be taken out of thoſe which are not ſet free, if there be enough to make one third part of the whole number whereof the huſband died poſſeſſed: And the widow in all ſuch caſes ſhall recover by preferring her bill in chancery againſt the executor or adminiſtrator, with the will annexed, one third part of ſuch ſlaves, which one third ſo to be allotted to her, ſhall be aſcertained by caſting lot: *Provided nevertheleſs*, That in all ſuch caſes where the perſonal eſtate of the huſband, after payment of debts and juſt expences, ſhall be ſufficient to compenſate the widow for the value of her third part of the ſlaves whereof her huſband died poſſeſſed, the executor or adminiſtrator, with the will annexed, ſhall pay to her ſuch ſum as ſhall be equivalent to her life eſtate in one third part of ſuch ſlaves; which ſum ſhall be aſcertained by perſons to be appointed for that purpoſe by the court, upon the application of the parties.

VI. If any perſon ſhall make, forge, or counterfeit, or cauſe to be made, forged, or counterfeited, or willingly act, or aſſiſt in the making, forging, or counterfeiting any writing whatſoever, whereby any ſlave or ſervant of another, without the approbation or

conſent of the owner, maſter, or miſtreſs of ſuch ſlave or ſervant ſhall be declared to be or intended to be emancipated, or ſhall be ſuffered to go at large, or paſs as a free perſon for any ſpace of time, every perſon ſo offending and thereof legally convicted, ſhall forfeit and pay the ſum of two hundred dollars, and ſuffer one year's imprifonment without bail or mainprize.

SMALL-POX.

December the 21ſt, 1792.—But commenced Oct. 1, 1792.

§ I. IF any perſon or perſons whatſoever, ſhall wilfully or deſignedly preſume to import or bring into this commonwealth, from any country or place whatever, the ſmall-pox, or any variolous or infectious matter of that ſaid diſtemper, with a purpoſe to inoculate any perſon or perſons whatever, or by any means to propagate the ſaid diſtemper within this commonwealth, he or ſhe ſo offending, ſhall forfeit and pay the ſum of three thouſand dollars for every offence ſo committed; one moiety whereof ſhall be to the informer, and the other moiety to the overſeers of the poor of the county, where the offence ſhall be committed, for the uſe of the poor of the ſaid county, to be recovered with coſts, by action of debt, bill, plaint, or information, in any court of record within this commonwealth. *(a)*

II. But for as much as the inoculation for the ſmall-pox may, under peculiar circumſtances, be not only a prudent, but neceſſary means of ſecuring thoſe who are unavoidably expoſed to the danger of taking the diſtemper in the natural way, and for this reaſon it is judged proper to tolerate it, under reaſonable reſtrictions and regulations. *(b)*

III. If any perſon ſhall think him or herſelf, his, or her family expoſed to the immediate danger of catching the ſaid diſtemper, ſuch perſon may give notice thereof to the ſheriff of any county, or to the mayor or chief magiſtrate of any city or corporation; and the ſaid ſheriff, mayor, or chief magiſtrate, ſhall immediately, and without loſs of time, ſummon all the acting magiſtrates of the ſaid county, city, or borough, to meet at the moſt convenient time and place, in the ſaid county, city, or borough, and the ſaid magiſtrates, or ſuch of them as ſhall be preſent, being aſſembled, ſhall conſider whether, upon the whole circumſtances of the caſe, inoculation may be prudent or neceſſary, or dangerous to the health and ſafety of the neighbourhood; and thereupon either grant a licenſe for ſuch inoculation, under ſuch reſtrictions and regulations as they ſhall judge neceſſary and proper, or prohibit the ſame, as to them, or a majority of them, ſhall ſeem expedient; or any perſon having firſt obtained in writing, (to be atteſted by two witneſſes) the conſent of a majority of the houſekeepers reſiding within two miles, and not ſeparated by a river, creek, or marſh, a quarter of a mile wide, and conforming to the following rules and regulations, may inoculate, or be inoculated for the ſmall-pox, either in his or her own houſe, or at any other place. *(c)*

IV. No patient in the ſmall-pox ſhall remove from the houſe where he or ſhe ſhall have the diſtemper, or ſhall go abroad into the company of any perſon who hath not before had the ſmall pox, or been inoculated, or go into any public road where travellers uſually paſs, without retiring out of the ſame, or giving notice upon the approach of any paſſenger, until ſuch patient hath recovered from the diſtemper, and hath been ſo well cleanſed in his or her perſon and cloaths, as to be perfectly free from infection, under the penalty of ſeven dollars for every offence, to be recovered, if committed by a married woman, from her huſband; if an infant from the parent or guardian; and if a ſervant or ſlave, from the maſter or miſtreſs. *(c)*

(a) 1769 c 26 *(b)* 1769 c 26 § 2 *(c)* 1777 c 5 § 2

V. Every phyſician, doctor, or other perſon undertaking inoculation at any houſe, ſhal cauſe a written advertiſement to be put up at the neareſt public road, or other moſt notorious adjacent place, giving information, that the ſmall-pox is at ſuch houſe, and ſhall continue to keep the ſame ſet up ſo long as the diſtemper or any danger of infection remains there, under the penalty of ſeven dollars for every day that the ſame ſhall be omitted or neglected, to be paid by the phyſician or doctor, if the offence ſhall be committed when he is preſent, or by the maſter, miſtreſs, manager, or principal perſon of the family, reſpectively, if the offence is committed in the abſence of the phyſician or doctor. Every phyſician, doctor, or other perſon undertaking inoculation at any public place, or hoſpital for the reception of patients, ſhall, before he diſcharges the patients, or ſuffers them to be removed from thence, take due care that their perſons and cloaths are ſufficiently cleanſed, and ſhall give ſuch patients, reſpectively, a certificate under his hand, that in his opinion they are free from all danger of ſpreading the infection, under the penalty of ten dollars for every offence; and every perſon wilfully giving a falſe certificate, ſhall be ſubject to the penalty of thirty dollars.

VI. If any perſon who hath not had the ſmall pox, other than thoſe who have been, or intend to be inoculated, ſhall go into any houſe where the ſmall-pox then is, or intermix with the patients and return from thence, any juſtice of the peace for the county or corporation, on due proof thereof, may, by warrant cauſe ſuch perſon to be conveyed to the next hoſpital where the ſmall pox is, there to remain until he or ſhe ſhall have gone through the diſtemper, or until the phyſician or manager of the hoſpital ſhall certify that in his opinion ſuch perſon cannot take the ſame, and if ſuch perſon be not able to pay the neceſſary expences, the ſame ſhall be paid by the county.

VII. And whereas checking the progreſs of the ſaid diſtimper, where it may accidentally break out, or the regulations which may be eſtabliſhed for carrying on inoculation, may be attended with ſome expence, it ſhall and may be lawful for the juſtices of every county, at the time of laying their levy, and for the mayor, recorder, aldermen, and common-council of any city or borough, at ſuch time as they ſhall judge moſt convenient, to levy on the tithable perſons in their ſaid county, city, or borough, ſo much money as will be ſufficient to defray the expences neceſſarily incurred for the purpoſes aforeſaid, in any ſuch county, city, or borough. *(a)*

VIII. If any ſheriff, mayor, or chief magiſtrate, ſhall, upon application to him made, in manner aforeſaid, refuſe, or unreaſonably delay to ſummon the magiſtrates of any county, city, or borough, for the purpoſe aforeſaid, or if any magiſtrate ſo ſummoned, ſhall refuſe or neglect to attend, according to ſuch ſummons, every ſuch ſheriff, mayor or chief magiſtrate, ſhall forfeit the ſum of three hundred dollars upon his refuſing or neglecting to give ſuch notice, without reaſonable excuſe; and every other magiſtrate ſo refuſing or neglecting, without reaſonable excuſe, ſhall alſo forfeit the ſum of twenty dollars to the perſon aggrieved.

IX. If any perſon or perſons ſhall inoculate or procure inoculation for the ſmall pox, to be performed within this commonwealth, without obtaining a licenſe or conſent to inoculate in the manner herein before directed, or ſhall not conform to the rules and regulations preſcribed by ſuch juſtices, he, ſhe, or they ſhall forfeit and pay, reſpectively, for every ſuch offence, the ſum of three hundred dollars; one moiety whereof ſhall be to the informer, and the other moiety to the overſeers of the poor of the county wherein ſuch offence ſhall be committed, for the uſe of the poor of the ſaid county; to be recovered with coſts by action of debt, bill, plaint, or information, in any court of record within this commonwealth; and moreover it ſhall and may be lawful for any juſtice of the peace, upon information given to him upon oath, to iſſue his warrant againſt any perſon ſo offending, and upon ſufficient proof before him made, to cauſe ſuch offender to give ſecurity in ſuch reaſon-

(a) 1769 c 26 § 5.

able penalty as ſuch juſtice ſhall think fit, for his or her good behaviour, and upon failure to give ſuch ſecurity, to commit him or her to the jail of his county or corporation, there to be confined until ſuch ſecurity be given: *Provided nevertheleſs*, That no perſon ſhall incur the penalties impoſed by this act for inoculating his family without conforming to the rules herein preſcribed, if any perſon of ſuch family ſhall have before taken the infection in the natural way; nor ſhall any patient in the ſmall-pox be compelled to remove from his uſual place of reſidence.

X. Every perſon wilfully endeavoring to ſpread or propagate the ſmall-pox, without inoculation, or by inoculation, in any other manner than is allowed by this act in ſpecial caſes, ſhall be ſubject to the penalty of fifteen hundred dollars, or ſuffer ſix months impriſonment without bail or mainprize. (*a*)

XI. All the penalties inflicted by this act, may be recovered with coſts, by action of debt or information, in any court of record, where the ſum exceeds twenty dollars, and where it is under, or amounts to that ſum only, by petition in the court of the county, where the offence ſhall be committed; and where they are not hereby appropriated otherwiſe, ſhall be one half to the informer, and the other half to the commonwealth, or the whole to the commonwealth, where proſecution ſhall be firſt inſtituted on the public behalf alone.

The repealing clauſe is, in ſubſtance, as in the appendix No. 11.

STABBING. *See Maiming.*

STATUTES. *See Britiſh Statutes.*

STEALING TOBACCO. *See Tobacco.*

STOLEN GOODS. *See Arſon, Benefit of Clergy, Acceſſaries to Felonies, and Receivers of Stolen Goods.*

October the 22d, 1792—but commenced Oct. 1, 1793.

IF any felon or felons do rob or take away any money, goods, or chattels, from any perſon within this commonwealth, whether from their perſon or otherwiſe, and thereof the ſaid felon or felons be afterwards convicted or attainted, that then the party ſo robbed, ſhall be reſtored to his ſaid money, goods, or chattels; and the court before whom ſuch felon ſhall be convicted or attainted, ſhall have power to award, from time to time, writs of reſtitution accordingly. (*b*)

The repealing clauſe is as in the appendix No. 10.

STOLEN MARRIAGES. *See Marriages.*

(*a*) Oct. 1777 c 5 § 5. (*b*) St. 21 Hen. VIII. c 11.

SUPPRESSION OF VICE, DRUNKENNESS, DISTURBERS OF RELIGIOUS WORSHIP, AND SABBATH-BREAKERS.

December the 26th, 1792—but commenced Oct. 1, 1793.

§ I. IF any perſon or perſons ſhall profanely ſwear or curſe, or ſhall be drunk, he, ſhe, or they ſo offending, for every ſuch offence, being thereof convicted by the oath of one or more witneſſes (which oath any juſtice of the peace is hereby empowered and required to adminiſter) or by confeſſion before one or more juſtice or juſtices of the peace in the county or corporation, where ſuch offence ſhall be committed, ſhall forfeit and pay the ſum of eighty-three cents for every ſuch offence; or if the offence or offences be committed in the preſence and hearing of one or more juſtice or juſtices of the peace, or in any court of record in this commonwealth, the ſame ſhall be a ſufficient conviction without any other evidence, and the ſaid offender ſhall upon ſuch conviction forfeit and pay the ſum of eighty-three cents for every ſuch offence; and if any perſon or perſons ſhall refuſe to make preſent payment, or give ſufficient ſecurity for the payment of the ſame in a reaſonable time, not exceeding ſix months, then the ſaid fines and penalties ſhall be levied upon the goods of ſuch perſon or perſons by warrant or precept from any juſtice of the peace, before whom ſuch conviction ſhall be, which warrant may be directed to the ſheriff of the county, or to the conſtable in his reſpective precinct, or to the ſerjeant of a corporation, to be appraiſed and valued as in other diſtreſſes; and if the offender or offenders be not able to pay the ſaid ſum or ſums, then he, ſhe, or they, ſhall have and receive ten laſhes upon his or her bare back, well laid on, for every ſuch offence. *(a)*

II. *Provided always*, That every proſecution by virtue of this act for ſwearing, curſing, or for being drunk, ſhall be made within two months after the offence committed and not otherwiſe. *(b)*

III. No officer for any civil cauſe ſhall arreſt any miniſter of religion licenſed according to the rules of his ſect, and who ſhall have taken the oath or affirmation of fidelity to the commonwealth, while ſuch miniſter ſhall be publicly preaching or performing religious worſhip, in any church, meeting-houſe, or other place of religious worſhip, on pain of impriſonment and amercement, at the diſcretion of a jury, and of making ſatisfaction to the party ſo arreſted. *(c)*

IV. And if any perſon ſhall on purpoſe, maliciouſly, or contemptuouſly, diſquiet or diſturb any congregation aſſembled in any church, meeting-houſe, or other place of religious worſhip, or miſuſe any ſuch miniſter being there, he may be put under reſtraint during religious worſhip by any juſtice preſent, which juſtice being preſent, or if none be preſent, then any juſtice before whom proof of the offence ſhall be made, may cauſe the offender to find two ſecurities to be bound by recognizance in a ſufficient penalty for his good behaviour, and in default thereof ſhall commit him to priſon, there to remain till the next court to be held for the ſame county or corporation, and upon conviction of the ſaid offence before the ſaid court, he ſhall be further puniſhed by impriſonment and amercement, at the diſcretion of a jury. *(c)*

V. If any perſon on a ſabbath day ſhall himſelf be found labouring at his own, or any other trade, or calling, or ſhall employ his apprentices, ſervants, or ſlaves in labour, or other buſineſs, except it be in the ordinary houſehold offices of daily neceſſity, or other work of neceſſity or charity, he ſhall forfeit the ſum of one dollar and ſixty-ſeven cents for every ſuch offence, deeming every apprentice, ſervant, or ſlave, ſo employed, and every day he ſhall be ſo employed, as conſtituting a diſtinct offence. *(c)*

VI. Every perſon not being a ſervant or ſlave committing adultery, or fornication, and being thereof lawfully convicted by the oaths of two or more credible witneſſes, or con-

(a) 1705 c 6 § 4 *(b)* 1705 c 6 § 5 *(c)* 1786 c 54

feſſion of the party, ſhall for every offence of adultery, forfeit and pay twenty dollars, and for overy offence of fornication, ten dollars; to be recovered by the ſuit or proſecution of the overſeers of the poor of the county or corporation, wherein ſuch offence ſhall be committed, by bill, plaint, or information, in any court of record within this commonwealth, wherein no eſſoin, protection, or wager of law ſhall be allowed; which ſaid fines and penalties ſhall accrue to the overſeers of the poor for the uſe of the poor of the county or corporation wherein the ſaid offence ſhall be committed. (*a*)

The repealing clauſe is, in ſubſtance, as in the appendix No. 18.

SURVEYORS. *See Land-Office and Surveyors.*

SUSPENSION OF LAWS. *See Laws of Virginia.*

SWEET-SPRINGS. *See Diſtrict Courts.*

TAR. *See Pork, Beef, Tar, Pitch, and Turpentine.*

TAXES.

December the 13th, 1792—but commenced Oct. 1, 1793.

§ I. EVERY county and corporation court within this commonwealth ſhall annually, in the months of October or September, appoint diſcreet and reputable perſons, to be commiſſioners for the purpoſes herein after mentioned. (*b*)

II. In thoſe counties where more commiſſioners than one are directed to be appointed, the ſaid courts ſhall alſo diſtinctly lay off and aſcertain the bounds of the diſtrict allotted to each commiſſioner. (*b*)

III. In each of the counties of Fauquier and Loudoun, there ſhall be three commiſſioners; in each of the counties of Culpeper, Accomack, Albemarle, Amherſt, Auguſta, Bedford, Berkeley, Botetourt, Brunſwick, Buckingham, Campbell, Caroline, Charlotte, Cheſterfield, Dinwiddie, Eſſex, Fairfax, Franklin, Frederick, Goochland, Greenbrier, Halifax, Hampſhire, Hanover, Hardy, Harriſon, Henrico, Iſle of Wight, King and Queen, Louiſa, Lunenburg, Mecklenburg, Monongalia, Montgomery, Nanſemond, Norfolk, Northumberland, Ohio, Orange, Pendleton, Pittſylvania, Prince Edward, Prince William, Princeſs Ann, Rockbridge, Rockingham, Ruſſel, Shenandoah, Southampton, Spotſylvania, Stafford, Suſſex, Waſhington, and Wythe, there ſhall be appointed two commiſſioners; and in each of the counties not herein before mentioned, and in each of the cities of Williamſburg and Richmond, and the towns of Peterſburg, Alexandria, Frederickſburg, and Wincheſter, and borough of Norfolk, there ſhall be appointed one commiſſioner. (*b*)

IV. *Provided*, That no member of either houſe of aſſembly, perſons holding any office in civil government receiving ſtated ſalaries, practiſing attornies, or phyſicians, clerks of courts, inſpectors, ordinary keepers, ſheriffs, ſurveyers, or their deputies, or perſons that have been in the office of ſheriff, deputy-ſheriff, or collector of public taxes in their county, ſhall be capable of acting or ſerving as commiſſioner, unleſs it ſhall appear by ſuffici-

(*a*) 1705 c 6 § 8 (*b*) 1782 c 19—1786 p 8

ent teſtimony, other than the party's own oath, that ſuch ſheriff or collector hath completed his collection, fully paid the amount thereof into the treaſury, and finally cloſed every account relative thereto. *(a)*

V. The clerk of the court ſhall certify to every commiſſioner his appointment without delay, and thereupon each commiſſioner ſhall repair to ſome acting magiſtrate of the county, and take the following oath, or affirmation, to wit:

"I A. B. do ſwear, (or ſolemnly, ſincerely, and truly declare and affirm) that, as commiſſioner of the revenue for county, (city, town, or borough of Norfolk, as the caſe may be) I will to the beſt of my ſkill and judgment, diligently and faithfully execute the duties of the ſaid office, without favor, affection, or partiality. And that I will do equal right and juſtice according to the beſt of my knowledge, in every caſe in which I ſhall act as commiſſioner. So help me God."

A certificate of which oath, or affirmation, ſhall be given the commiſſioner by the magiſtrate adminiſtering it, and the magiſtrate ſhall alſo certify the ſame to the next court held for his county, to be recorded. *(a)*

VI. Every commiſſioner thus qualified, ſhall perform the following duties within his diſtrict: He ſhall in the firſt place apply to the preceding commiſſioner, or other perſon, who ſhall have poſſeſſion of it, for the book containing the owners names, the number of acres or lots, the rate at which land is valued by the acre, the amount or total value of each tract or lot of land within his diſtrict, and the tax payable thereon; which book the ſaid commiſſioner ſhall keep ſo long as he ſhall continue in office, and on his death, reſignation, or inability to act, ſhall be delivered to the ſucceeding commiſſioner for the diſtrict. And every commiſſioner ſhall in the ſaid book note from time to time, all ſuch alterations, alienations, diviſions and additions, as may happen within his diſtrict, and ſhall alſo perform all the duties of the commiſſioners of the land tax as herein preſcribed. *(a)*

VII. The clerk of the general court, and the clerks of the ſeveral diſtrict courts, on or before the firſt day of May, annually, are hereby directed to make return, and the clerks of the county and corporation courts to deliver to the ſaid commiſſioners, a liſt of conveyances or partitions recorded in their reſpective courts within the preceding year, certifying the quantity and ſituation of the lands ſo conveyed; and the regiſter of the land office, on or before the firſt day of April, annually, ſhall in like manner tranſmit a liſt of all grants iſſued within the year preceding, to be by them valued at a price equal to other lands within their reſpective diſtricts, ſimilar in ſoil and ſituation, and ſuch commiſſioner ſhall give a credit to the perſon diſpoſing of the ſame, and charge the purchaſer or receiver with the tax payable thereon; and in like manner in caſes where lands have not been heretofore valued, or where lands which now are vacant and may hereafter be taken up, the ſaid commiſſioners ſhall, and they are hereby required to value the ſame and charge the owner thereof with the tax in manner aforeſaid. *(a)*

VIII. The ſaid commiſſioners ſhall ſeverally on the tenth day of March, annually, begin, and continue proceeding without delay through their reſpective diſtricts, and call upon every perſon ſubject to taxation, or having property in his or her poſſeſſion or care, on which any tax is impoſed, for a written liſt thereof, which liſt being corrected, if neceſſary, and diſtinctly read over by the commiſſioner to the perſon delivering the ſame, he or ſhe ſhall then make oath or affirmation, that ſuch liſt contains a juſt and true account of all perſons, and of every ſpecies of property in his or her poſſeſſion or care, within the diſtrict (land only excepted) ſubject to taxation on the ninth day of March, then next preceding, and that no contract, change or removal whatever of property had been made or entered into, or any other method deviſed, practiſed or uſed, in order to evade the pay-

(a) 1782 c 19.—1789 p 8

ment of taxes; which oath or affirmation the commiſſioner is hereby empowered and directed to adminiſter. (*a*)

IX. And whereas frequent abuſes have been practiſed by the owners of billiard tables by taking them down, ſo as to defeat the intention of this act: The commiſſioner ſhall return all ſuch which to his knowledge have been ſet up or uſed within his county at any time within the year, although the ſame may not be returned by the owner therof, and ſuch tables ſhall at all times be liable for the tax. (*a*)

X. Each of the ſaid commiſſioners ſhall after collecting the liſts of property from the inhabitants of his diſtrict, in manner before mentioned, make four alphabetical general liſts therefrom, ſhewing in columns, according to the form hereto annexed, the date when each liſt was received, the perſons chargeable with the tax or taxes, diſtinguiſhing thoſe alſo ſubject only to county levies and poor rates, and the number or quantity of every ſpecies of property ſubject to tax, which liſts ſhall be kept and delivered in the following manner: Each commiſſioner ſhall retain one of thoſe liſts in his own poſſeſſion, ſo long as he continues in office, afterwards to be delivered to his ſucceſſor, as in the caſe of the land-tax books, and one other of the liſts, together with the liſts taken from the individuals in his diſtrict, ſhall be returned to the clerk, who ſhall examine the ſame, and if found to be erroneous, either in addition or otherwiſe, correct the ſame together with the others, and then certify them to be true copies. The liſts in the clerk's office ſhall ſerve for laying the county levy, and fixing the poor rates, and be ſubject to the inſpection or examination of every perſon who may chooſe to examine the ſame, provided they be not taken out of the clerk's poſſeſſion; and copies may be had at the charge of the perſon or perſons deſiring the ſame. One other of the ſaid liſts after being certified by the clerk, ſhall be delivered by the commiſſioner to the high ſheriff of the county, as his guide to collect the taxes, and the remaining fourth liſt being alſo certified by the clerk, ſhall be tranſmitted by the commiſſioner to the auditor's office, there to be minutely examined, and to be produced by the auditor, and admitted as evidence by the general court, for the amount of taxes charged the ſheriff. All which liſts it is hereby declared, to be the duty of the ſeveral commiſſioners to have delivered to the ſeveral perſons or officers, on or before the laſt day of May, annually. And the ſaid commiſſioners ſhall take a receipt or acknowledgment in writing of the delivery of ſuch liſts. (*a*)

XI. The ſaid commiſſioners ſhall alſo at the time of delivering liſts of taxable property herein before directed, deliver to the clerk of his county, and at the auditor's office, a fair and correct copy of the ſtate of the land tax, noting the alterations, alienations, diviſions, and additions that may have taken place in the preceding year, within his diſtrict, to enable the clerk to adjuſt his book of the land tax, and the auditor to adjuſt the equalizer's books; and the book containing the land tax, together with the annual returns of the ſeveral commiſſioners lodged in the clerk's office, ſhall be ſubject at all times to the inſpection of every perſon, in like manner as the liſts of taxable property; and the ſaid commiſſioners ſhall alſo deliver to the ſheriff an exact liſt of taxes due from all and every perſon or perſons for land within his diſtrict, to enable the ſheriff to proceed in his collection. (*a*)

XII. In caſe any perſon appointed to the office of commiſſioner under this act, ſhall refuſe to ſerve, not having a reaſonable excuſe in the opinion of the court of the county, he ſhall, for ſuch refuſal, forfeit and pay the ſum of one hundred dollars. (*a*)

XIII. No commiſſioner after having ſerved one year, ſhall be again compelled to ſerve.

XIV. Upon the refuſal to act, notice of reſignation, death or inability of any commiſſioner, it ſhall be the duty of the court of ſuch county, immediately to appoint a ſucceſſor, and the clerk is directed to call for all papers in the preceding commiſſioner's hands, or his

(*a*) 1786 p 8

legal repreſentatives; and in caſe they be loſt, ſhall be furniſhed on application as herein before directed.

XV. The court of each county, city, and corporation ſhall make ſuch allowance to the clerk for his ſervices under this act, as they ſhall think reaſonable, which ſhall be levied on the tithables within the ſame. (*a*)

XVI. The commiſſioners of the revenue ſhall, before the firſt day of Auguſt in every year, return to the courts of their reſpective counties or corporations, a correct account of their ſervices, and the ſaid courts are hereby reſpectively authoriſed and required to aſcertain the time, in which the ſaid ſervices might have been reaſonably performed, and ſhall certify the ſame to the auditor of public acounts in manner following:

"This day produced an account of his ſervices as a commiſſioner of the revenue, "and the court have conſidered that days were requiſite for the ſaid commiſſioner "to perform the ſervices aforeſaid."

And in lieu of the allowance heretofore made, the ſaid commiſſioners ſhall be paid by the treaſurer of this commonwealth, on warrant from the auditor of public accounts, one dollar per day, agreeably to the time ſo aſcertained by the court. And for every entry of alienation or alteration, they may demand and receive forty-two cents, and no more: *Provided always*, That no commiſſioner or commiſſioners, ſhall be allowed a ſum or ſums exceeding the revenue tax, of his or their reſpective counties or corporations. (*b*)

XVII. On complaint made to any county or corporation court, that a commiſſioner neglects or abuſes the truſt hereby veſted in him, it ſhall be lawful for ſuch court to order a ſummons to iſſue, requiring the ſaid commiſſioner to appear before them at their next ſucceeding court, which being ſerved on him, or a copy thereof left at his uſual place of abode, ten days at leaſt before the return day thereof, the court may proceed to hear and determine the complaint, and may remove him from office if it appear to them that ſaid complaint is well founded.

XVIII. If any perſon ſhall give or deliver to a commiſſioner, a falſe or fraudulent liſt of perſons or property ſubject to taxation, or ſhall refuſe to give a liſt on oath or affirmation, when required by the commiſſioner, the perſon or perſons ſo refuſing ſhall be liable to a fine of fifteen dollars, and the commiſſioner ſhall proceed to liſt ſuch perſon's property, agreeable to the beſt information he can procure; and all ſuch property ſo aſcertained, ſhall be moreover ſubject to a triple tax, to be collected and diſtrained for by the ſheriff, as in other caſes; and in the caſe of an imperfect, falſe or fraudulent liſt, the perſon giving the ſame, ſhall be ſubject to pay a fine of fifteen dollars, and the property ſubject to a triple tax; which fines and triple taxes ſhall be recovered in the county court by the following mode of proceeding, and applied as herein after directed. (*c*)

XIX. The commiſſioner ſhall give information thereof, perſonally, or if unable to attend, in writing, under his hand, to the next court held for his county, which court ſhall forthwith direct the clerk to iſſue a ſummons, requiring the party to appear at the next court to be held for the county, to ſhew cauſe, if any he can, why he ſhould not be fined, and triply taxed for giving an imperfect or fraudulent liſt of taxables; and the perſon or perſons, upon being ſerved therewith by the ſheriff, and appearing, ſhall immediately plead to iſſue, and the matter thereof ſhall be enquired into by a jury, or the court, at the defendant's option, and on conviction, or the perſon failing to appear upon being ſummoned, the fine and triple tax ſhall be eſtabliſhed by judgment of the court, who, unleſs good cauſe ſhewn at the next ſucceeding court, for ſuch failure, ſhall award execution for the fine and coſts, and certify the amount of the tax to the ſheriff, for collection, and to the auditor's of-

(*a*) 1786 p. 8 (*b*) 1791 c 8 § 1 (*c*) 1786 p. 8

fice; the amount of which fine, after deducting thereout ſuch allowance as the court may think reaſonable to make the commiſſioner for his extraordinary trouble on the occaſion, ſhall be applied towards leſſening the county levy; and the triple tax ſhall be charged to the ſheriff and accounted for in like manner as the other taxes. (*a*)

XX. The clerk of the court ſhall ſet up at the door of his courthouſe, a copy of the proceedings in ſuch caſes, on the ſucceeding court day. (*a*)

XXI. And for preventing frauds or impoſitions upon commiſſioners: Every perſon or perſons having knowledge of any incorrect, falſe, or fraudulent liſt being given a commiſſioner, ſhall give information thereof, either to a commiſſioner, or to the county court, in like manner as the commiſſioner is directed, and thereupon the ſame mode of proceeding ſhall be had as if the commiſſioner gave information; and the perſon informing ſhall be entitled to, and receive one half of the fine impoſed on the offender or offenders, to his own uſe, and the other half to be applied towards leſſening the county levy.

XXII. The clerk of every county court ſhall tranſmit to the governor a fair and atteſted copy of all proceedings had at his court, in purſuance of this act, immediately after every court, noting therein the names of the ſitting magiſtrates; which atteſted copy ſhall be admitted as proof on any motion in the general court, by the auditor, for the recovery of any fine impoſed by this act. (*a*)

XXIII. The clerk, juſtices, or commiſſioners, or their legal repreſentatives, failing to perform any one of the duties impoſed on them reſpectively, by this act, ſhall be ſubject to a fine of one hundred and fifty dollars, to be recovered by motion on any day, at either of the ſeſſions in the general court, at the inſtance of the auditor; notice of ſuch motion being previouſly given in the ſame manner as to the delinquent ſheriffs. (*a*)

XXIV. In caſe any perſon ſhould be abſent from his or her place of reſidence at the time the commiſſioner calls to receive the liſt, and it ſhall appear to the commiſſioner, that ſuch abſence was not intentional, or done with a view of avoiding the delivery of ſuch liſt, it ſhall be lawful for the commiſſioner to require the attendance of ſuch abſent perſon, with his or her liſt, at any time and place within the ſaid diſtrict, provided ſuch perſon tenders his or her liſt to the commiſſioner, and makes oath to the juſtneſs of it, on or before the twenty-fifth day of May, annually; and in caſe of failure, the commiſſioner ſhall proceed in like manner as is before directed, in caſes of refuſal to give in liſts; and the court ſhall determine upon the circumſtances of the caſe, whether to inflict or remit the fine and triple taxes. (*a*)

XXV. A liſt of all the inſolvents returned by the ſheriff to the court, ſhall be tranſmitted by the clerk to the commiſſioners of the revenue, to be entered in their book of taxes for that year, and no ſheriff ſhall have credit for ſuch inſolvents in his account with the public, unleſs certified by the ſaid commiſſioners to have been allowed by the court; and the ſaid commiſſioner ſhall moreover tranſmit with the ſaid liſts of inſolvents, an account of the tax of any perſon who may have removed out of the county, together with the name of the county, to which they have removed; which account the auditor is hereby directed to tranſmit to the commiſſioners of the revenue of the county to which they have removed, to be charged on their books, and collected by the ſheriff. An account of all fines or additional taxes impoſed by virtue of this act, ſhall be by the ſaid commiſſioners, tranſmitted to the auditor's office, before the firſt of Auguſt, annually. And the ſaid commiſſioners ſhall ſtate in their book of taxes, a general account with the ſheriff, for all taxes, fines, and additional taxes in their county, crediting him for all inſolvents, and alſo for all payments made by the ſaid ſheriff to the public, receipts for which ſhall be by the ſaid ſheriff tranſmitted to the ſaid commiſſioners within twenty days after obtaining the ſame, a copy of which account ſhall be by the ſaid commiſſioners tranſmitted to the auditor's office, before the firſt day of May, annually.

(*a*) 1786 p. 82.

XXVI. The commiſſioners ſhall ſeverally return on oath to their reſpective courts, a liſt of all their own taxable property, and ſhall enter the ſame in the ſeveral liſts to be by them returned to the different perſons and public officers, and on failing to comply herein, ſhall be liable to be proceeded againſt, in the ſame manner, and ſubject to the ſame penalties as in caſe of any other neglect.

Form of keeping the book containing the land tax by the commiſſioner.

Liſt of the land tax within the diſtrict of A. B. commiſſioner, in the county of C.

Perſons names owning land.	Number of lots.	Yearly rent of lots.	Amount of tax on lots at— in	Quantity of land.	Rate of land per acre.	Total amount of value of land excluſive of lots.	Amount of tax on lands at —— per	Total amount of tax on lots and lands.
Sum total								

Form of return of taxable property to be made by the commiſſioners.

Liſt of taxable property within the diſtrict of A. B. commiſſioner, in the county of C. for the year 17—.

	Date of receiving liſt from individuals.	Perſons names chargeable with the tax.	Number of white males above ſixteen years.	Blacks above twelve years old.	Blacks above ſixteen years old.	Horſes, Mares, Colts, and Mules.	Ordinary Licenſes.	Billiard Tables.	Stud Horſes.	Rates of covering per ſeaſon.	Carriage Wheels		
											Coaches, Chariots, & Poſt-Chaiſes.	Other riding four wheel Carriages.	Riding Carriages with two wheels.
Tot. amt.													

XXVII. The taxes on lands, ſlaves, and other property ſhall hereafter become due, on the thirty-firſt day of December in every year, may be diſtrained for on the firſt day of May next ſucceeding, and ſhall be collected, accounted for, and paid in ſpecie only, into the public treaſury, by the ſheriff of the county, or other collector to be appointed by virtue of this act, on or before the firſt day of October next thereafter, under the penalties herein after mentioned. (*a*)

XXVIII. When any ſheriff or collector of taxes ſhall have good cauſe to ſuſpect, that any perſon means to remove his property without the limits of his juriſdiction, ſo that in his opinion there may be a probability of the taxes with which ſuch perſon is chargeable, being loſt by the public, it ſhall and may be lawful for ſuch ſheriff or collector, on making oath thereto before a magiſtrate, and receiving a certificate of ſuch oath, to levy diſtreſs on the goods and chattels of ſuch perſon, for the amount of taxes with which he or ſhe is then

(*a*) 1790 c 1—1791 c 1—1786 c 26.

chargeable, any time before the firſt day of May; any thing in this act to the contrary notwithſtanding.

XXIX. It ſhall and may be lawful for all deputy-ſheriffs to collect and make diſtreſs for any taxes which may be due at the time of the death of their high ſheriffs, and ſhall be accountable for the ſame, in like manner as if the ſheriff had lived. And no ſheriff or collector ſhall be allowed to diſtrain for any taxes, after two years from the time the taxes became due, except ſheriffs appointed prior to the year one thouſand ſeven hundred and ninety-two; who ſhall have the power of diſtraining for the taxes now due, for the term of eighteen months from the paſſing of this act: *Provided neverthelefs*, That no ſheriff or collector ſhall be allowed to diſtrain for ſuch arrearages, until he ſhall have entered into bond, with ſufficient ſecurity, to be approved of by ſuch court, to pay and ſatisfy all ſuch damages and coſts as may be recovered againſt him, for any abuſe of the power hereby veſted in him. (*a*)

XXX. It ſhall be lawful for the county courts within this commonwealth, to qualify any perſon or perſons, for the purpoſe of completing the collection of taxes in any county, where the ſheriff and his deputy ſhall die, before ſuch collection ſhall be completed: And the perſon or perſons ſo appointed, after having given bond and ſecurity to the executors or adminiſtrators of the ſaid ſheriff, to be approved of by the court for the faithful performance of the duties of the office, ſhall have the ſame power in all reſpect, for collecting ſuch arrears, as the high ſheriff would have had. But the acting executors or adminiſtrators of ſuch high ſheriff, if any ſuch there be, at the time of ſuch appointment, ſhall be ſummoned by order of the ſaid court, to ſhew cauſe, if any they can, againſt the perſon whom the ſaid court ſhall nominate. (*b*)

XXXI. The perſon or perſons ſo appointed, ſhall in all reſpects be ſubject to the ſame penalties, for any neglect of duty, or failing to account for and pay to the perſon or perſons authoriſed to receive the money by him or them ſo collected, and may be proceeded againſt by ſuch executors or adminiſtrators, in the ſame manner as deputy-ſheriffs are liable to, and may be proceeded againſt by their principals. (*c*)

XXXII. In caſe payment be not made by any perſon chargeable with any tax, levy, fine, or forfeiture, or amercement, the ſheriff or collector ſhall have power to diſtrain the ſlaves, goods or chattels which ſhall be found upon the lands, or in poſſeſſion of the perſon ſo indebted or failing, notwithſtanding ſuch ſlaves, goods or chattels, ſhall be compriſed in any deed or mortgage. (*d*)

XXXIII. If the owner thereof ſhall not pay ſuch tax, levy, fine, forfeiture, or amercement, within five days after ſuch diſtreſs, ſuch ſheriff or collector ſhall and may lawfully ſell the ſame, or ſo much thereof as ſhall be ſufficient to diſcharge the ſaid taxes, and the charges of diſtreſs and ſale, for ready money; which ſale ſhall be good and effectual in law, againſt all perſons whatſoever.

XXXIV. The ſheriff or collector of the taxes within this commonwealth, ſhall at the time he returns a liſt of other inſolvents, return a liſt of the lands within his county, or corporation, where he cannot find effects within the ſame, belonging to the owner or tenant thereof, ſufficient to pay and ſatisfy the tax; and if the court ſhall be ſatisfied of the truth thereof, they ſhall admit the ſheriff or collector to make oath thereto, and direct the ſame to be certified to the auditor of public accounts, together with the names of the owners of each tract of land and the place of his or her abode, where the court can obtain ſuch information. The auditor ſhall credit the ſame in account for the land tax, with ſuch ſheriff or collector. And where it ſhall appear to the auditor from the certificates of the county courts, or where he ſhall be ſatisfied from any other information, that any perſon ſo chargeable with any of the ſaid taxes reſides, or hath any ſlaves or perſonal property in ſome other

(*a*) 1789 c 29 (*b*) 1789 c 48 § 1 (*c*) 1789 c 48 § 2 (*d*) Oct. 1782 c 8 § 4.

county of this commonwealth, than that in which ſuch land may lie, he ſhall certify the amount of the land tax with which ſuch perſon is or ſhall be chargeable, to the ſheriff or collector of the county in which ſuch perſon may reſide, or have ſlaves or perſonal property (as the caſe may be) and ſhall debit ſuch ſheriff or collector with the amount of the taxes ſo tranſmitted to him, who may make diſtreſs for the ſame, and ſhall be accountable therefor, in like manner as for other taxes of his county. A liſt of theſe inſolvents, with the amount of the tax due from them reſpectively, ſhall be furniſhed by the clerk, of the court to the collector of the tax for the ſucceeding year, and he ſhall tranſmit a copy thereof to the auditor of public accounts, who ſhall debit the ſheriff or collector therewith; and ſuch ſheriff or collector ſhall diſtrain and account for the ſame, in like manner as for other taxes, and in caſe the ſaid taxes cannot be collected the ſucceeding year, the like return upon oath ſhall be made, as is herein before preſcribed; and thereupon the treaſurer, ſhall cauſe to be inſerted in the Virginia Gazette, for three weeks ſucceſſively, the names of ſuch delinquents, with the quantity of land, the ſituation thereof, and the taxes due thereon. *(a)*

XXXV. In caſe the tax on any tract of land within this commonwealth, ſhall not be paid for the ſpace of three years, the right to ſuch lands ſhall be loſt, forfeited and veſted in the commonwealth; and it ſhall be lawful for any perſon to acquire a title to any land ſo forfeited, in the manner preſcribed by an act, intituled, "An act for reducing into one, the "ſeveral acts concerning the land office; aſcertaining the terms and manner of granting "waſte and unappropriated lands, for ſettling the titles and bounds of lands; directing the "mode of proceſſioning, and preſcribing the duty of ſurveyors." *(a)*

XXXVI. *Provided always*, That nothing herein contained ſhall affect the right of infants, femes covert, or perſons of unſound mind, who ſhall be allowed three years to ſave the ſame from forfeiture, after ſuch diſability be removed. *(a)*

XXXVII. And where any tenant ſhall be diſtrained for the taxes due from the proprietor of the land, he ſhall have credit for the ſame againſt ſuch proprietor out of the rents he may owe him; but this act ſhall not be conſtrued to deſtroy or impair any contract, by which the tenant may be bound to pay the ſaid land tax, or any part thereof. *(a)*

XXXVIII. The clerks of the ſeveral courts within this commonwealth, ſhall, reſpectively, on or before the firſt day of April, and firſt day of October in every year, account for on oath, and pay into the public treaſury, all the monies which by law they ſhall be authoriſed to receive on public account, after a deduction of five per centum therefrom, as a commiſſion. And in caſe of fraud herein by any clerk, he ſhall on conviction thereof be deprived of his office.

XXXIX. All and every act and acts, clauſes and parts of acts, containing any thing within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided always*, That nothing herein contained, ſhall prevent the collection and recovery of any arrearages of taxes due before the commencement of this act, but ſuch arrearages ſhall be collected, paid, and diſtrained for, and recovery had againſt all delinquents, and the damages on failure of payment thereof, ſhall be the ſame as if this act had not been made.

December the 25th, 1795.

I. WHEREAS it is repreſented, that there are many tracts of patented land in this commonwealth, which it is not in the power of the commiſſioners appointed agreeably to the act, intituled, "An act preſcribing the mode of aſcertaining the taxable "property within the commonwealth, and of collecting the public revenue," preciſely to aſcertain and value agreeably to the meaning of the ſaid recited act:

(a) 1790 c 5 § 1.

II. In all cases where the commissioners shall not be able to find any lands subject to taxation, as aforesaid, it shall be their duty, and they are hereby required and directed, to publish a list of all such lands at the door of their respective court houses, at least three several court days successively, and in case the owner or owners, his, her, or their agent or attorney, shall not within one month thereafter, shew the same to the said commissioners, they shall proceed to tax the said lands, agreeably to the best information they can obtain, and class the same accordingly; any thing in any law to the contrary notwithstanding.

December the 17th, 1795.

§ I. THE public taxes for the year one thousand seven hundred and ninety-five, shall be as follows, to wit: On lands, for every hundred pounds value agreeable to the equalizing law, five shillings; for every slave above the age of twelve years (except such as have been or shall be exempted by reason of age or infirmity, by the respective county or corporation courts) one shilling and eight pence; for every stud horse and jack ass, the price at which such horse or ass covers a mare the season, for all other horses, mules, mares, and colts, four pence each; for every ordinary license, forty shillings; for every billiard table, fifteen pounds; for all lots and houses in towns, sixteen shillings and eight pence on every hundred pounds of the rent thereof, to be ascertained by the rent paid by the tenant; and where such house and lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners of the revenue or either of them, by a comparison of its value with other houses or lots actually rented: *Provided*, That the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the court by whom the commissioner was appointed, whose judgment as to the yearly rent or value, shall be final. The said commissioners or either of them to ascertain the rent paid on houses or lots actually leased, may call on the tenant or proprietor to declare upon oath or solemn affirmation, what is the amount of rent paid for the same; and every person so called upon and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion on ten days previous notice, to be made by the commissioners of the revenue or either of them; for every four-wheeled riding carriage, except phætons and stage-waggons, six shillings per wheel; for all phætons and stage-waggons, four shillings per wheel; for every other riding carriage with two wheels, two shillings per wheel: *Provided*, That no tax shall be collected on lands, lots, houses, or other property belonging to this commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning.

II. The following tax on law process shall be paid; on each writ or declaration in ejectment, instituting a suit in the district court, or subpœna in the high court of chancery, the sum of one dollar; on each appeal to the high court of chancery, two dollars; on each writ of error, supersedeas, and habeas corpus cum causa, or certiorari, issued from the general court, a district court, or high court of chancery, one dollar; on each appeal from any county court or court of hustings, to a district court, one dollar: The said taxes shall by the respective clerks be taxed in the bill of costs; on each certificate under the seal of any county or corporation court, there shall be a tax of one dollar. No writ, subpœna, or any writ of error, supersedeas, certiorari, or habeas corpus cum causa shall be issued, or declaration in ejectment filed by any clerk, unless the taxes hereby imposed thereon be first paid down. In all appeals no transcript of the record shall be delivered to the appellant by the clerk of the court, or forwarded by him to a superior court before the tax thereon be paid. Nor shall any certificates under the seal of any county or corporation court be granted, until the tax thereon shall have been first paid to the clerk keeping such seal. There shall be paid forty two cents for every transfer of a surveyor's certificate for land, to be collected by the register of the land office before the issuing of the patent. For

every atteſtation, proteſtation, and all other inſtruments of publication, from a notary public under his ſeal of office, fifty cents, to be collected and accounted for by the ſaid notary public; and one dollar for each certificate under the ſeal of the commonwealth, to be collected by the clerk of the council before the delivery of ſuch certificate; which laſt mentioned taxes ſhall be accounted for and paid in like manner, and with the like commiſſions for collecting, as is directed in the caſe of other taxes impoſed by this act.

December the 12th, 1795.

IN all ſales of lands heretofore made according to law, on account of arrearages of public taxes, by any ſheriff or other officer who may have departed this life before conveyance thereof to the purchaſer or purchaſers, and in which caſes, conveyances ought yet to be made, it ſhall and may be lawful for the ſheriff of the county, where the land lies, now in office, or his ſucceſſor, to convey the ſame to the purchaſer or purchaſers, or his or their heirs or aſſigns, in as full and ample manner as the ſheriff or other officer who made the ſale, might or ſhould have done, which conveyance ſhall recite the ſale and conſideration, and ſhall be effectual for paſſing to the purchaſer or purchaſers, or his or their heirs or aſſigns, all the eſtate and intereſt which the debtor or commonwealth had or might lawfully part with in the lands ſo ſold as aforeſaid.

THEFTS AND FORGERIES.

December the 19th, 1792—but commenced Oct. 1, 1793.

§ I. IF any perſon ſhall counterfeit, aid, or abet in counterfeiting any coin made current in this commonwealth, or ſhall make, or aſſiſt, aid, or abet in making baſe coin, or ſhall paſs any ſuch counterfeit or baſe coin in payment, knowing the ſame to be counterfeit or baſe, every ſuch perſon ſhall on legal conviction, ſuffer death without benefit of clergy. *(a)*

II. If any perſon ſhall falſely make, forge, or counterfeit, or cauſe, or procure to be falſely made, forged, or counterfeited, or willingly act, or aſſiſt in the falſe making, forging, or counterfeiting any deed, will, teſtament, bond, writing obligatory, bill of exchange, promiſſory note for the payment of money, or any acquittance or receipt, either for money or goods, with intention to defraud any perſon whatſoever, or ſhall utter, or publiſh as true, any falſe, forged, or counterfeited deed, will, teſtament, bond, writing obligatory, bill of exchange, promiſſory note for the payment of money, endorſement, or aſſignment of any bill of exchange, promiſſory note for the payment of money, acquittance or receipt, either for money or goods, with intention to defraud any perſon, knowing the ſame to be falſe, forged, or counterfeited, then every ſuch perſon, being thereof lawfully convicted, ſhall be deemed guilty of felony, and ſuffer death as a felon, without benefit of clergy. *(b)*

III. If any perſon within this commonwealth, ſhall forge or counterfeit, alter or eraſe, any certificate or warrant, iſſued, or to be iſſued by any perſon or perſons authoriſed for that purpoſe, either by the congreſs of the United States, or the legiſlature of this ſtate, for the payment of money, or ſhall be aiding or aſſiſting therein, or ſhall demand payment thereof, knowing the ſame to be forged, counterfeited, altered, or eraſed, or ſhall transfer any ſuch certificate or warrant, knowing the ſame to be forged or counterfeited, altered, or eraſed; or ſhall forge or counterfeit, alter, or eraſe, any certificate whatever, for the purpoſe of obtaining a ſettlement of money from any perſon or perſons authoriſed for that purpuſe, either by the congreſs of the United States, or the legiſlature of this ſtate, or ſhall be aiding or aſſiſting therein, or ſhall require ſettlement thereon, or transfer the ſame,

(a) May 1776 c 10 *(b)* 1789 c 19.

knowing it to be forged, counterfeited, altered or eraſed, he or ſhe ſo offending, and thereof legally convicted, ſhall ſuffer death without benefit of clergy. *(a)*

IV. If any perſon whatſoever ſhall forge or counterfeit, alter or eraſe the ſtamp or receipt of any inſpector of flour or hemp, or tender in payment any ſuch forged or counterfeited, altered or eraſed receipt, knowing it to be ſuch, and ſhall thereof be convicted, he or they ſhall be adjudged a felon, and ſuffer death as in the caſe of felony, without benefit of clergy. *(b)*

V. He or ſhe ſhall be adjudged a felon, and not have the benefit of clergy, who ſhall forge or counterfeit, alter or eraſe the ſtamp or receipt of any inſpector or inſpectors of tobacco, or ſhall cauſe or procure ſuch ſtamp or receipt to be forged or counterfeited, altered or eraſed, or ſhall aid or aſſiſt in forging or counterfeiting, altering or eraſing, ſuch ſtamp or receipt, or ſhall paſs or tender, or ſhall cauſe or procure to be paſſed or tendered, any ſuch ſtamp or receipt in payment or exchange, knowing the ſame to have been forged, or counterfeited, altered or eraſed, or ſhall have in his or her cuſtody, or poſſeſſion, any inſpector's ſtamp or receipt, which hath been altered or eraſed, knowing the ſame to have been altered or eraſed, and ſhall not diſcover ſuch altered or eraſed ſtamp or receipt to two juſtices of the peace, within five days after they or either of them ſhall have come to his or her poſſeſſion, or ſhall export, or cauſe to be exported, any hogſhead or caſk of tobacco ſtamped with a forged or counterfeited ſtamp, or ſhall receive or demand, tobacco of an inſpector upon any forged or counterfeited, altered or eraſed ſtamp or receipt, knowing ſuch ſtamp or receipt to be forged or counterfeited, altered or eraſed. *(c)*

VI. He or ſhe ſhall be adjudged a felon, and not have the benefit of clergy, who ſhall ſteal, or by other means take from the poſſeſſion or cuſtody of another, any warrant from the regiſter of the land office of this commonwealth, to authoriſe a ſurvey of waſte and unappropriated lands; or who ſhall alter, eraſe, or aid, or aſſiſt in the alteration or eraſement of any ſuch warrant; or forge, or counterfeit, or aid, abet or aſſiſt, in forging or counterfeiting any written or printed paper purporting to be ſuch warrant; or who ſhall transfer to the uſe of another, or for his or her own uſe, preſent or cauſe to be preſented to the regiſter for the exchange thereof, or to a ſurveyor for the execution thereof, any ſuch warrant or paper purporting to be ſuch warrant, knowing the ſame to be transferred or preſented, for the exchange or the execution thereof, to be ſtolen, or by other means taken from the poſſeſſion or cuſtody of another, or altered or eraſed, or forged or counterfeited: And he or ſhe ſhall be adjudged a felon, and not have the benefit of clergy, who ſhall falſely make or counterfeit, or aid, abet, or aſſiſt in ſafely keeping or counterfeiting any inſtrument, ſtamping an impreſſion in the figure and likeneſs of the ſeal officially uſed by the regiſter of the land-office, or who ſhall have in his or her poſſeſſion or cuſtody, ſuch inſtrument, and ſhall wilfully conceal the ſame, knowing it to be falſely made or counterfeited. *(d)*

VII. He or ſhe ſhall be adjudged a felon, and not have the benefit of clergy, who ſhall ſteal, or by robbery take from the poſſeſſion or cuſtody of another, any loan office certificate of the United States, or any of them, or any warrant of the governor, or other perſon exerciſing that function, or any certificate of the auditor of public accounts to the treaſurer, authoriſing the payment of money, or ſhall preſent, or cauſe to be preſented, ſuch loan-office certificate at a loan office of the United States, or any of them, for the diſcharge of the whole, or any part thereof, or ſuch warrant or auditor's certificate at the public treaſury for the payment thereof, knowing ſuch loan-office certificate or warrant, or auditor's certificate, to have been ſtolen, or by robbery to have been taken from the poſſeſſion or cuſtody of another. *(e)*

The repealing clauſe is as in the appendix No. 18.

(a) Oct. 1784 c 69 *(b)* May 1782 c 52 § 6 *(c)* May 1783 c 10 § 35 *(d)* May 1779 c 13 § 6 *(e)* May 1779 c 4—Oct. 1780 c 39.

December the 8th, 1794—but commenced March the 31ſt, 1795.

IF any perſon ſhall falſely make, forge, or counterfeit, or cauſe or procure to be falſely made, forged, or counterfeited, or wittingly act or aſſiſt in the falſe making, forging or counterfeiting any deed, will, teſtament, bond, writing obligatory, bill of exchange, promiſſory note for the payment of money or tobacco, or other valuable thing, or any acquittance or receipt either for money or tobacco, or other valuable thing, or any endorſement or aſſignment of any bond, writing obligatory, bill of exchange, promiſſory note for the payment of money or tobacco, or other valuable thing, with intention to defraud any perſon or perſons whatſoever, or any corporation, or ſhall utter or publiſh as true, any falſe, forged or counterfeited deed, will, teſtament, bond, writing obligatory, bill of exchange, promiſſory note for the payment of money or tobacco, or other valuable thing, endorſment or aſſignment of any bond, writing obligatory, bill of exchange, promiſſory note for the payment of money or tobacco, or other valuable thing, acquittance or receipt for money, tobacco, or other valuable thing, with intention to defraud any perſon or perſons whatſoever, or any corporation, knowing the ſame to be falſe, forged, or counterfeited, then every ſuch perſon being thereof legally convicted, ſhall be deemed guilty of felony, and ſhall ſuffer death as a felon without benefit of clergy.

TIPPLING HOUSES. *See Ordinaries and Tippling Houſes.*

TITHABLES AND COUNTY LEVY.

December the 27th, 1792—but commenced October 1, 1793.

§ I. ALL male perſons of the age of ſixteen years and upwards, and all female ſlaves of the age of ſixteen years and upwards, ſhall be, and they are hereby declared to be tithable, and chargeable for defraying the county levies and poor rates, except ſuch only as the county courts may, by reaſon of age, infirmity, or other charitable reaſons, exempt from the payment of public taxes. *(a)*

II. *Provided*, That nothing herein contained, ſhall be conſtrued to extend to the governor for the time being, or to his domeſtic ſervants, or to the preſident, maſters, ſcholars, or domeſtic ſervants of the college of William and Mary, or to the perſon of any ordained miniſter, or to the perſon of any conſtable, ſo long as he continues in office, ſo as to charge them, or either of them as tithables, within the meaning of this act. *(b)*

III. The commiſſioners of the tax within the ſeveral counties of this commonwealth, ſhall, and they are hereby required and empowered, at the ſame period in each year in which they are collecting liſts of the taxable property in their reſpective diſtricts, under the act, intituled, "An act preſcribing the mode of aſcertaining the taxable property within this commonwealth, and of collecting the public revenue," to demand from each perſon, being tithable, or having in his or her poſſeſſion ſuch as are tithable, a written liſt of ſuch as are tithable perſons in his or her family; which liſts the ſaid commiſſioners, reſpectively, ſhall arrange in an alphabetical table, and on or before the laſt day of May, annually, together with the vouchers taken by them, as aforeſaid, return to the clerks of the courts.

IV. The clerks of the ſeveral county courts, ſhall at their next court, after the table containing the liſt of tithables as aforeſaid ſhall be returned to them, ſet up in the courthouſe of their county, fair copies of ſuch tables. *(c)*

V. The maſter or owner of a family, or in his or her abſence, or non-reſidence at the plantation, his or her agent, attorney, or overſeer, ſhall at the time appointed by this act, in a liſt under his or her hand, deliver or cauſe to be delivered, to the commiſſioner of the

(a) 1748 c 16 § 1, as altered by 1769 c 37 § 1, 2. *(b)* 1748 c 16 § 2 *(c)* 1748 c 16 § 4.

tax for that diſtrict, the names and numbers of all tithables abiding in, or belonging to his or her family, the ninth day of March preceding the time of delivering in ſuch liſt; or the maſter or owner thereof, or in caſe of his or her abſence or non-reſidence, the overſeer ſhall be adjudged a concealer of ſuch and ſo many tithables as ſhall not be liſted or given in; and for every tithable perſon ſo concealed, ſhall forfeit and pay ten dollars; one moiety for the uſe of the county, towards leſſening the levy thereof, and the other moiety to the uſe of the informer; to be recovered by action of debt or information, in any court of record. And when any overſeer ſhall fail to liſt the tithables on any plantation whereon he is overſeer, the maſter or owner ſhall be ſubject to the payment of their levies in the ſame manner as he would have been, if they had been liſted. And if any commiſſioner of the tax ſhall not truly liſt and enter the names and numbers of his own tithables in that diſtrict or county, for which he is to return a liſt, he ſhall be adjudged a concealer, and for every tithable perſon ſo by him concealed and not liſted, ſhall forfeit and pay twenty dollars, to be applied and recovered as aforeſaid. *(a)*

VI. *Provided always*, That if any owner or overſeer ſhall happen by ſickneſs or otherwiſe to omit delivering his or her liſt to the commiſſioner of the tax at the time the ſame may be required, it ſhall be lawful for ſuch perſon to ſend his or her liſt to the houſe of ſuch commiſſioner at any time, before he makes his return to the clerk of the county as aforeſaid, which ſhall diſcharge him or her from the penalty aforeſaid. *(b)*

VII. The juſtices of the ſeveral counties within this commonwealth, ſhall, and they are hereby authoriſed and empowered, at their courts reſpectively, to be held in the month of June or July, annually, or as ſoon after as may be if no court ſhould be held in either of thoſe months, to proceed to make up in their minutes, an account of all expences incurred by the ſaid court under authority of any law, chargeable on the county and remaining unpaid, ſtating therein the ſums due, for what, and to whom due, and all credits owing to the ſaid county. When the balance due from the county is thus aſcertained, by deducting the ſums due to the county, from thoſe owing by the county, the ſaid juſtices ſhall proceed to levy and aſſeſs on the tithable perſons in their reſpective counties, the amount of that balance in equal proportions. The ſums due to the county, and the ſum to be aſſeſſed on the tithables being added together, ſhall then be appropriated by the court, ſo as to ſhew the right of each county creditor, and the amount of his demand.

VIII. The clerks of the county courts reſpectively, ſhall within ten days after the levy has been apportioned by the court as aforeſaid, deliver to the ſheriff or collector, a liſt of the perſons as aforeſaid chargeable with the payment of levies, and the ſum to be paid by each for his county rate, and alſo a liſt of the ſums due to the ſaid county, and of the perſons from whom due; as alſo of the perſons to whom the ſame ought to be paid, with the amount of their reſpective demands; the ſaid ſheriff or collector ſhall immediately proceed to collect from the perſons chargeable therewith, the ſums due to the ſaid county, and the county rate ſettled as aforeſaid, with the ſame powers and for the ſame commiſſion, as in the caſe of public taxes; and ſhall pay the ſame to the county creditors according to their reſpective demands.

IX. If any ſheriff or county collector ſhall fail to account with and ſatisfy the county creditors as aforeſaid, the reſpective ſums levied for them or either of them within ſix months after the levy ſhall be laid, or ſhall fail to adjuſt and ſettle the account of his collection with the county within the ſaid ſix months, it ſhall and may be lawful for any county creditor who may be injured by ſuch delinquency, to obtain judgment againſt ſuch ſheriff or collector, his or their heirs, executors, adminiſtrators, or ſecurities, in the court of that county where the delinquency happened, upon giving ten days previous notice to ſuch delinquent ſheriff or collector, his or their heirs, executors, adminiſtrators or ſecurities.

(*a*) 1748 c 16 § 4, but changed in ſome particulars. (*b*) 1748 c 16 § 6.

And it ſhall and may be lawful, where ſuch ſheriff or collector fails to account with the county as aforeſaid, for the court of that county before whom he ought to account, to enter judgment againſt ſuch delinquent ſheriff or collector, for whatever ſhall appear to be due from ſuch ſheriff or collector, and award execution thereon, giving ſuch ſheriff ten days previous notice of ſuch proceeding.

X. The court of each county ſhall, and they are hereby authoriſed and empowered, at the time of ſettling their county levy as aforeſaid, to appoint the ſheriff of their county, or any other perſon, collector of their county levies, taking from the perſon ſo appointed, a bond, in the penalty at leaſt of double the ſum to be collected, payable to the juſtices of the county ſo appointing him, with two or more reſponſible ſureties, conditioned for the faithful collection, accounting for, and paying the ſeveral ſums wherewith he ſhall be chargeable as ſheriff or collector of the county, in the manner directed by law.

XI. Each commiſſioner of the tax, failing to take or return the liſt of tithables as directed by this act, ſhall forfeit and pay forty dollars; one moiety for the uſe of the county towards leſſening the county levies, and the other moiety to the informer; to be recovered by action of debt or information in any court of record.

XII. If any clerk of the county courts ſhall fail to publiſh in their courthouſes the liſt of tithables, as herein before is directed, or ſhall fail to deliver to the collector of the county levies, the liſt hereby required to be delivered to him, at the time and in the manner required by this act, ſuch clerk ſo omitting, ſhall for each offence, forfeit and pay the ſum of thirty dollars; to be applied and recovered as aforeſaid. (*a*)

XIII. Each collector of the county levies appointed as aforeſaid by the court, may appoint one or more deputies to aſſiſt him in his collections, for whoſe conduct he ſhall be anſwerable, which deputies ſhall have the ſame power as the collector himſelf; and ſuch collector ſhall have the ſame remedy and mode of recovery againſt his deputies or either of them, and their ſecurities reſpectively, for any ſums of money, which by virtue of this act, ſuch collector may be ſubjected to the payment of, on account of the tranſactions of any of his deputies, as the collector himſelf is ſubject to by law.

The repealing clauſe is as in the appendix No. 17.

TITLES. *See Pretenſed Titles.*

TOBACCO.

November the 29th, 1792—but commenced October 1, 1793.

[The laws out of which this is compounded, are ſo various, and ſo little important, that they are paſſed over.]

§ I. NO tobacco ſhall be ſhipped or exported from this commonwealth, unleſs the ſame ſhall be packed in hogſheads or caſks, taken from ſome public warehouſe herein after mentioned, and received and inſpected according to the directions of this act.

II. Public warehouſes for the reception of tobacco purſuant to this act, ſhall be kept at the ſeveral places herein after mentioned, that is to ſay: In the county of Accomack, at Pitt's landing, upon Pocomoke, at Guildford, and at Pungoteague, under one inſpection; in the county of Caroline, at Roy's; in the county of Dinwiddie, at Bolling's point, Bollingbrooke, and Cedar point; in the county of Eſſex, at Hobb's Hole, at Bowler's and at Layton's; in the county of Fairfax, at Colcheſter, Alexandria, and the Falls of Patowmac; in the county of Glouceſter, at Poropotank, and at Deacon's neck; in the county of Hanover, at Page's, Crutchfield's, and Meriwether's; in the county of Cheſterfield, at Rocky Ridge, Oſborne's, at John Bolling's, on the lands of Jacob Rub-

(*a*) 1748 c 16 § 4.

ſaman, in the town of Mancheſter, to be called and known by the name of Mancheſter, on the lots of Alexexander and Peterfield Trent, in the town of Mancheſter, diſtinguiſhed in the plan thereof by the numbers two hundred and nine, two hundred and ten, two hundred and twenty-one, and two hundred and twenty-two, to be called and known by the name of Trent's warehouſe, and on thoſe of Edward Johnſon, deceaſed, in the ſaid town, to be called and known by the name of Johnſon's warehouſe; in the county of Henrico, at Byrd's, Shockœ, and Rockett's; in the county of Iſle of Wight, at Smithfield, and at Fulgham's, under one inſpection; in the county of King and Queen, at Shepherd's, at Mantapike, and at Frazer's in King-William, under one inſpection, and at Todd's in King and Queen, and at Aylett's in King-William, under one inſpection; in the county of King George, at Boyd's Hole; and Machodack, under one inſpection, and at Gibſon's, to be called and known by the name of Gibſon's warehouſe; in the county of Lancaſter, at Davis's and Lowry's, under one inſpection, and at Deep creek and Glaſcock's, under one inſpection; in the county of Northumberland, at North and South Wicomico, under one inſpection, at Coan's, in the ſaid county, and at Indian creek in the ſaid county, and at Dymer's in the county of Lancaſter, under one inſpection; in the county of Middleſex, at Urbanna, and at the place where Kemp's warehouſe formerly ſtood up Pianketank river; in the county of Nanſemond, at Milner's and Suffolk; in the county of Northampton, at Cherryſtones and Naſwaddox, under one inſpection; in the county of New-Kent, at Littlepage,s and the Brick houſe; in the county of Prince George, at Hood's, Boyd's, Davis's, and Blandford; in the county of Prince William, at Quantico, Dumfries, a place called Rocks, on Quantico creek, to be called and known by the name of M'Rae's warehouſe, and in the town of Newport, on the lots of Cuthbert Bullitt, to be called and known by the name of Bullitt's warehouſe; in the county of Richmond, at Cat point, and Totuſkee; in the county of Surry, at Gray's creek, and Low point; in the county of Stafford, at Falmouth, at Acquia, and at Dixon's; in the county of Spotſylvania, at Frederickſburg, and at Royſton's; in the county of Weſtmoreland, at Nomony, at Leeds, and Maddox, under one inſpection; at Yeocomico and Kinſale, under one inſpection; at the College Landing in the county of James City, and at York town in the county of York; at Hampton in the county of Elizabeth City; in the county of Botetourt, on the lands of William Crow, at Crow's ferry, to be called and known by the name of Crow's warehouſe; in the county of Hampſhire, at the confluence of the north and ſouth branches of the river Potowmac, on the lands of Thomas Creſap, to be called and known by the name of Creſap's warehouſe; and in the town of Romney, to be called and known by the name of Romney warehouſe; in the county of Campbell, at Lynch's ferry, to be called and known by the name of Lynch's warehouſe; in the county of Fluvanna, at the Point of Fork, on the lands of David Roſs, to be called and known by the name of Rivanna warehouſe; in the county of Amherſt, on the north ſide of James river, below Swan's creek, on the lands of Nicholas Cabell, to be called and known by the name of Swan creek warehouſe; in the county of Berkeley, on the lands of Abraham Shepherd, near the town of Mecklenburg, to be called and known by the name of Mecklenburg warehouſe; on the lands of William Barkſdale, in the town of Peterſburg, to be called and known by the name of Barkſdale's warehouſe; on the lands of Robert Bolling, junior, in the ſaid town, adjoining his preſent dwelling-houſe, to be called and known by the name of Weſt-hill warehouſe; on the lands of Alexander G. Straghan, in High-ſtreet in the ſaid town, to be called and known by the name of High-ſtreet warehouſe; on the lots of Thomas Shore and George Wilſon, likewiſe in the ſaid town, to be called and known by the name of Weſtbrook warehouſe; and on the lands of Elizabeth Spencer, Ann Swann Saunders, and Daniel Wooldridge, in the ſaid town, to be called and known by the name of Peterſburg warehouſe; in the county of Albemarle, on the lands of Bennett Henderſon, at the place called the Shallows, on the Rivanna river, to be call-

ed and known by the name of Henderſon's warehouſe; and on the lands of Wilſon Cary Nicholas, at the mouth of Ballenger's creek, in the ſaid county, to be called and known by the name of Nicholas's warehouſe; in the county of Monongalia, at Morgan-town, to be called and known by the name of Morgan-town warehouſe; in the county of Loudon, at the Great Falls of the Patowmac, to be called and known by the name of the Great Falls warehouſe; in the county of Cumberland, on the lands of John Woodſon, at Carter's ferry, to be called and known by the name of Woodſon's warehouſe; in the county of Norfolk, on the lands of Thomas Veal, in the town of Portſmouth, to be called and known by the name of Portſmouth warehouſe; in the county of Fairfax, on the lands of William Thornton Alexander, in the town of Alexandria, to be called and known by the name of Thornton's; in the county of Amherſt, on the lands of John Lynch, at his ferry, to be called and known by the name of Amherſt Warehouſe; in the county of Halifax, on the lands of Richard Booker, at Booker's ferry, on the Staunton river, to be called and known by the name of Booker's warehouſe; in the county of Buckingham, on the lands of John Horſeley, at the mouth of Bent creek, to be called and known by the name of Horſley's warehouſe.

III. The rents of the ſeveral warehouſes hereby eſtabliſhed, ſhall be, and they are hereby eſtabliſhed at the following rates: At Pitt's and Guildford's, thirty three dollars and thirty-three cents; at Pungoteague, twenty ſix dollars, and ſixty-ſeven cents; at Cherryſtone's and Naſwaddox, twenty-ſix dollars, and ſixty-ſeven cents; at Hampton, thirty-three dollars and thirty-three cents; at the College landing, thirty-three dollars and thirty three cents; and at all the other warehouſes, there ſhall be allowed and paid for the rents for the ſame, twenty-five cents for every hogſhead of tobacco that already has been or ſhall be received, inſpected and delivered out of ſuch warehouſes reſpectively, except as herein after excepted. And there ſhall be paid to the proprietors of each warehouſe, for all tobacco lying therein, more than twelve months, at the rate of five cents per month for each hogſhead, to be paid by the ſhipper thereof, at the time of ſhipping the ſame.

IV. Where the warehouſes are already built at any of the places herein before mentioned, and appointed for keeping the ſame, and are now made uſe of for public warehouſes, the proprietors and owners of ſuch warehouſes ſhall be, and they are hereby obliged to let the ſame to the inſpectors during the continuance of this act, at the rent hereby eſtabliſhed for ſuch warehouſes reſpectively, and if any proprietor or owner ſhall refuſe ſo to do, he ſhall forfeit and pay fifteen hundred dollars; and where warehouſes are not already built at any of the places aforeſaid, or where any new warehouſes ſhall be hereafter appointed to be kept at any other place, it ſhall be lawful for the juſtices of the court of that county wherein ſuch place is, or ſhall be, and they are hereby required, at the next court to be held for their county after ſuch new warehouſe ſhall be ſo appointed, to order and direct ſo many ſtrong, cloſe, and ſubſtantial houſes, ſecured with ſtrong doors, hung on iron hinges, and with ſtrong locks or bolts, as will contain ſufficient room for two thirds of the number of hogſheads, which in their opinion will be annually brought to the ſame, and one brick ſquare or funnel ſix feet high at leaſt, and four feet diameter, with a proper arch at the bottom of the ſame, for burning tobacco refuſed and picked, at ſuch warehouſes, and ſuch other conveniences as ſhall be neceſſary; and ſhall cauſe the owner or proprietor of the land where ſuch warehouſes are appointed to be kept, and if ſuch owner or proprietor be under age, feme covert, or out of the country, then the guardian, huſband, or known attorney, or agent (as the caſe may be) of ſuch owner or proprietor, to be ſummoned to appear before them at the next ſucceeding county court after ſuch ſummons ſhall iſſue, there to declare whether they will undertake to erect and build ſuch houſes, funnel, and other conveniences, and let the ſame to the inſpectors appointed to attend at ſuch warehouſes at the rent ſettled by this act, or which ſhall be hereafter ſettled for the ſame; and in caſe ſuch owner, guardian, huſband, known attorney, or agent, will undertake the ſame,

then the ſaid court ſhall, and they are hereby required, to take bond with ſufficient ſecurity, in a reaſonable penalty, payable to the governor and his ſucceſſors, to the uſe of the commonwealth, with condition for the due performance of ſuch undertaking. And if ſuch owner, guardian, huſband, known attorney, or agent, ſhall refuſe to undertake the ſame, or give ſuch bond as aforeſaid, then it ſhall be lawful for the ſaid juſtices, and they are hereby required, to value an acre of the ſaid land, and to pay or tender to the proprietor, his or her guardian, huſband, known attorney, or agent, the value thereof, which ſhall be repaid to the ſaid juſtices by the public, and from thenceforth the juſtices of the county for the time being, ſhall be ſeized in fee of the ſaid land in truſt, and for the uſe of the public, during the time the ſaid place ſhall be made uſe of for a public warehouſe; and the ſaid juſtices ſhall agree with ſome perſon or perſons to erect and build thereon, ſuch houſes, funnels, and other conveniences as is herein before directed, and ſhall certify the charge thereof to the treaſurer of this ſtate for the time being, who is hereby directed and required to pay the ſame out of the public money in his hands ariſing from the inſpection of tobacco, and ſhall take and receive of the inſpectors the rent eſtabliſhed at ſuch warehouſes for reimburſing the public the charge of ſuch buildings, until the ſame ſhall be repaid with lawful intereſt. And where the juſtices of any county court, or any other perſon or perſons, have already built warehouſes on lands of another perſon by virtue of, or in purſuance of the laws lately or now in force, the ſaid juſtices, or other perſon or perſons, ſhall in like manner be ſeized in fee of the acre of land upon which ſuch warehouſes are built, ſo long as the ſaid places reſpectively ſhall be made uſe of for public warehouſes; but if any of the warehouſes which are or ſhall be built by the public, the juſtices, or other perſons, ſhall hereafter be diſcontinued, the proprietor of the land returning the price paid for the ſame, with lawful intereſt, ſhall be thenceforth ſeized of his former eſtate.

V. The inſpectors at the ſeveral warehouſes ſhall, at the court to be held for their reſpective counties in the month of September yearly, or at the next ſucceeding court, produce and render into court an exact account under their hands, of the number of hogſheads of tobacco inſpected at their reſpective warehouſes the preceding year, and of the condition of the warehouſes under their charge, and the quantity of tobacco they are capable of containing, and thereupon ſuch court, if they ſhall not be ſatisfied that the warehouſes already built, at any of the ſaid inſpections, are properly ſecured, and contain ſufficient room for two-thirds of the number of hogſheads mentioned in ſuch account, to be conveniently ſtored, ſhall enter an order that the owner or proprietor of ſuch warehouſes, ſhall, within ſuch reaſonable time as the ſaid court ſhall think fit to allow, repair and make cloſe the warehouſes already built, and ſecure the ſame with ſtrong doors hung on iron hinges, and with ſtrong locks or bolts; and that ſuch owner or proprietor ſhall alſo, before the firſt day of April, in the enſuing year, erect, build, and completely finiſh, ſuch and ſo many other ſtrong, cloſe and ſubſtantial houſes, as with the other houſes already built, ſhall be ſufficient, in the opinion of ſuch court, conveniently to contain two-thirds of the quantity of tobacco mentioned in ſuch inſpector's account, and ſecure the ſame in manner herein before directed; a copy of which order ſhall be ſerved on ſuch owner or proprietor, or his or her guardian, huſband, attorney, or agent, (as the caſe may be) and if ſuch owner or proprietor, his or her guardian, huſband, attorney, or agent, ſhall fail to appear at the next ſucceeding court after ſuch notice, and enter into bond with ſufficient ſecurity in a reaſonable penalty, payable to the governor for the time being, and his ſucceſſors, with a condition for the due performance of the ſame, then it ſhall be lawful for the ſaid court, and they are hereby required, to cauſe ſuch repairs and houſes to be made and built as aforeſaid, and ſhall certify the charge thereof to the treaſurer of this ſtate for the time being, who is hereby required to pay the ſame out of the public money in his hands ariſing from the in-

ſpection of tobacco, and ſhall take and receive from the inſpectors the whole or a proportion of the rents eſtabliſhed at ſuch warehouſes, for reimburſing the public the charge of ſuch buildings and repairs, with intereſt thereon, which proportion ſhall be ſettled by the court, and by them certified to the treaſurer.

VI. If any county court ſhall fail or refuſe to do their duty in directing ſuch houſes, funnels, and other neceſſary conveniences, at the places eſtabliſhed by this act for erecting new warehouſes, or ſuch additional buildings and repairs at the places where houſes are already built, and cauſing the ſame to be built or made according to the directions of this act, every juſtice ſo failing or refuſing, ſhall forfeit and pay one hundred dollars, to be recovered in the diſtrict court, with coſts, by action of debt or information, againſt the juſtices jointly.

VII. *Provided always*, That nothing herein contained, ſhall be conſtrued to give power to the ſaid juſtices to take away the houſes, orchards, or other immediate conveniences of any proprietors of lands, for the purpoſes aforeſaid, nor to the ſaid inſpectors to keep any horſes, cattle, or hogs, at any public warehouſes, except their riding horſes, upon the land appointed for ſuch warehouſes; and if any ſwine belonging to the ſaid inſpectors, or any of them ſhall be found at large upon the land appropriated for ſuch warehouſes, or the lands adjoining thereto, it ſhall be lawful for the proprietors of the ſaid lands, to kill, or cauſe to be killed or deſtroyed, all ſuch ſwine.

VIII. *Provided alſo*, That where any houſes have been, or ſhall be built by the juſtices or other perſons, as aforeſaid, and the firſt proprietor of the land ſhall deſire to have the ſame again, ſuch proprietor, upon payment of ſo much money, as ſhall be ſufficient to reimburſe the ſaid juſtices, or other perſon, the principal money expended for the purchaſe of the land and the building ſuch warehouſes, with lawful intereſt, deducting the rents received by the ſaid juſtices or other perſon, ſhall be reſtored to his former eſtate in the land whereon ſuch warehouſes are built, and ſhall receive the rents aforeſaid growing due for ſuch warehouſes; *Provided alſo*, That if any proprietor ſo as aforeſaid reſtored to his eſtate, ſhall neglect or refuſe to build and repair ſuch houſes, as the court ſhall think neceſſary, the juſtices ſhall again be ſeized of the fee ſimple eſtate in ſuch land during the time ſuch place ſhall be made uſe of for a public warehouſe, and ſuch proprietor ſhall not have any benefit of the rents that ſhall hereafter become due.

IX. On complaint being made by the owner or owners of any of the warehouſes aforeſaid, to any juſtice of the peace in the county where ſuch warehouſe ſhall lie, againſt any perſon or perſons, for breaking, tearing, or committing any waſte or deſtruction of, or in ſuch warehouſe or warehouſes, it ſhall be lawful for ſuch juſtice, and he is hereby empowered and required to give judgment and award execution againſt the body or eſtate of ſuch offender, if found guilty, for all damages occaſioned by ſuch breaking, tearing, or waſte, or deſtruction, provided ſuch damages do not exceed the ſum of five dollars in his opinion; and if ſuch damages ſhall exceed that ſum, then it ſhall be lawful for ſuch owner or owners to commence and proſecute his or their action at law, againſt any ſuch offender in any court of record within this ſtate, in which the plaintiff ſhall recover coſts, although the damage ſhall be under ſeven dollars.

X. There ſhall be kept at every one of the ſaid warehouſes herein before appointed, and at all others hereafter to be appointed, a good and ſufficient pair of ſcales with weights to weigh fifteen hundred pounds at the leaſt, and a ſet of ſmall weights, the ſame that are or ought to be provided for the ſtandard weights of each county; and where ſuch ſcales and weights are not already provided, or now are or ſhall hereafter be worn out, or become unfit for uſe, the juſtices of the reſpective county courts wherein any of the ſaid warehouſes are or ſhall be, are hereby directed and required to provide the ſame, with all convenient ſpeed; and the treaſurer, for the time being, is hereby empowered and required to pay the purchaſe money out of the public money in his hands, ariſing from the inſpection of tobac-

to, and moreover the ſaid juſtices are hereby required and directed, twice in every year at leaſt, to appoint one or more of their number to view the ſaid ſcales, and examine and try the weights at the ſeveral warehouſes by the ſtandard weights of the county; and if the ſaid ſcales and weights ſhall want repairing, or the weights be found deficient, or differing from the lawful ſtandard, the ſaid juſtices ſhall cauſe the ſame to be repaired and mended, and the weights made conformable to the ſtandard; and if the juſtice or juſtices ſo appointed, ſhall refuſe or neglect to do the ſame, the juſtice or juſtices ſo refuſing, ſhall forfeit and pay the ſum of one hundred and fifty dollars; and the charge of repairing and mending the ſaid ſcales and weights, and alſo for removing the ſtandard to the ſeveral warehouſes for trying the ſame, ſhall be paid by the inſpectors reſpectively, and be again allowed to them in their accounts with the treaſurer.

XI. All tobacco which ſhall be brought to any of the public warehouſes ſhall be viewed, inſpected and examined by two perſons to be thereunto appointed, who ſhall be called inſpectors, which ſaid inſpectors ſhall be appointed in the following manner, that is to ſay: The courts of the ſeveral counties within this ſtate, wherein any of the public warehouſes appointed by this act are eſtabliſhed, ſhall, and they are hereby required, once in every year and no oftener, at their reſpective county courts held in the months of Auguſt or September, to nominate and recommend to the governor for the time being, for ſo many offices of inſpection as are or ſhall be in their reſpective counties, four fit and able perſons reputed to be ſkilful in tobacco, for the execution of the office of inſpectors; and where two warehouſes under one and the ſame inſpection happen to lie in different counties, in that caſe the court of each county ſhall nominate and recommend two for ſuch inſpection, which nomination the ſaid courts ſhall cauſe to be entered upon record, and the clerks of the ſaid courts ſhall, and they are hereby required forthwith to tranſmit a certificate of the ſame to the clerk of the council; and out of the ſaid four perſons nominated and recommended for each inſpection, the governor, with advice and conſent of council, ſhall chooſe and appoint two to execute the office of inſpectors at ſuch inſpection; and in default of ſuch nomination or recommendation by the county courts as aforeſaid, the governor, with the like advice and conſent ſhall appoint ſuch perſons as he ſhall think fit to be inſpectors at ſuch inſpection, for which no nomination or recommendation ſhall be made as aforeſaid, and alſo in caſe of the death, reſignation, or removal of any inſpector, the governor ſhall, and may appoint any perſon named in the laſt recommendation from the county court, for that inſpection where the vacancy ſhall happen, to ſucceed him until the next nomination and appointment of inſpectors; but if either of the perſons named in ſuch laſt recommendation, will not accept the ſaid office, in that caſe, the governor, with the advice and conſent of the council, may appoint any other perſon they ſhall think fit; and beſides the two inſpectors appointed as aforeſaid, the governor for the time being, with the advice of the council, ſhall appoint one of the perſons recommended with ſuch inſpectors, to be additional inſpector at the warehouſe for which he ſhall be recommended; which additional inſpector ſhall officiate as ſuch, only in caſes of diſagreement in opinion of the other inſpectors as to the quality of tobacco brought to their inſpection, or where either of them ſhall through ſickneſs or otherwiſe be abſent from his duty, or ſhall bring his own tobacco to the warehouſe whereof he is inſpector, to be viewed; and the ſaid additional inſpector ſhall be paid for the ſervices he ſhall perform, by occaſion of the abſence of either of the other inſpectors, out of the ſalary of ſuch abſentee, in proportion to the time he ſhall officiate.

XII. If any inſpector ſhall hereafter accept, receive or take, directly or indirectly, any fee, gratuity, ſervice or reward whatſoever, of any perſon for reſigning or giving up his office of inſpector, he ſhall not only be forever diſabled from holding the like office, but for ſuch offence ſhall forfeit and pay the ſum of ſix hundred dollars, to be recovered with coſts by action of debt, in any court of record within this ſtate, by any perſon ſuing for

the ſame; and every perſon offering or paying directly or indirectly, any fee, ſervice, gratuity, or reward whatſoever, to any inſpector to reſign his ſaid office, ſhall for the ſaid offence be forever diſabled from holding the office of inſpector within this ſtate.

XIII. *Provided always*, That no juſtice of the peace recommended to be an inſpector, ſhall be allowed to vote in nomination and recommendation of perſons to be inſpectors as aforeſaid, and where any perſon once recommended as aforeſaid, and executing the office of inſpector in purſuance of ſuch recommendation, ſhall be again recommended the ſucceeding year, the ſame ſhall be a ſufficient appointment to him to continue in the ſaid office another year, without any new commiſſion, and ſo from year to year, ſo long as he ſhall be ſo recommended as aforeſaid. *Provided nevertheleſs*, that each inſpector ſhall annually renew his bond, and give ſecurity for the faithful diſcharge of his duty.

XIV Every perſon appointed, or to be appointed inſpector by virtue of this act, ſhall before he enters upon the execution of the ſaid office, enter into bond with good ſecurity in the penalty of four thouſand dollars, payable to the governor for the time being, and his ſucceſſors, with condition for the true and faithful performance of his duty, according to the directions of this act, which bond ſhall be recorded in the county, and tranſmitted by the clerk of the court to the treaſurer, under the penalty of three hundred dollars, who ſhall move for judgment againſt every inſpector failing to diſcharge the ſame within two months after failure, under the penalty of three hundred dollars; and every ſuch inſpector ſhall alſo take the following oath, at the time he gives bond, that is to ſay:

"You ſhall ſwear that you will diligently and carefully view and examine all tobacco "brought to the public warehouſe or warehouſes where you are appointed inſpector, and "that not ſeparately and apart from your fellow, but in his preſence; and that you will "not receive or paſs any tobacco that is not in your judgment ſound, well conditioned, "merchantable, and clear of traſh, nor receive, paſs or ſtamp any tobacco hogſheads or "caſks of tobacco contrary to the true intent and meaning of this act, nor refuſe any to-"bacco that in your judgment is ſound, well conditioned, merchantable, and clear of "traſh, and that you will not change, alter, or give out any tobacco, other than ſuch "hogſheads or caſks, for which the receipt to be taken, was given, but that you will in "all things well and faithfully diſcharge your duty in the office of inſpector, according to "the beſt of your ſkill and judgment, and according to the directions of this act, without "fear, favor, affection, malice or partiality. So help you God."

Which oath ſhall be taken before the governor of this ſtate for the time being, before the diſtrict court, or in the court of the county wherein ſuch inſpector ſhall reſide, or the warehouſes at which he ſhall be appointed inſpector ſhall ſtand; but before any inſpector ſhall enter upon the execution of his office, he ſhall produce a certificate, if ſworn before the governor or diſtrict court, (as the caſe may be) of his having taken ſuch oath, which certificate ſhall be lodged with the clerk of the county where ſuch inſpector ſhall be; and if any perſon ſhall preſume to execute the office of inſpector before he ſhall have given ſuch bond, and taken ſuch oath as aforeſaid, he ſhall forfeit and pay two thouſand dollars.

XV. All inſpectors to be appointed by virtue of this act, ſhall conſtantly attend their duty at the warehouſe or warehouſes under their charge, from the firſt day of October, to the tenth day of Auguſt, yearly, except Sundays, and the holy days obſerved at Chriſtmas, Eaſter, and Whitſuntide, or when hindered by ſickneſs; and afterwards they or one of them ſhall conſtantly attend at the ſame, except on Sundays, to deliver out tobacco for exportation, until all the tobacco remaining there the ſaid tenth day of Auguſt ſhall be delivered: But no inſpector ſhall be obliged to view any tobacco between the ſaid tenth day of Auguſt, and the firſt day of October, except ſuch as remained in the warehouſe on the ſaid tenth day of Auguſt; and every inſpector neglecting to attend as aforeſaid, ſhall for-

felt and pay to the party grieved, one dollar for every neglect, or ſhall be liable to an action upon the caſe, at the ſuit of the party grieved, to recover all ſuch damages as he or they ſhall have ſuſtained by occaſion of any ſuch neglect, together with his or their full coſts, at the election of ſuch party.

XVI. And that all perſons having tobacco at the publie warehouſes, may have equal juſtice, the inſpectors ſhall enter in a book to be kept for that purpoſe, the marks and owners names of all tobacco brought to their reſpective warehouſes for inſpection as the ſame ſhall be brought in, and ſhall view and inſpect the ſame in due turn as it ſhall be entered in ſuch book, without favor or partiality; and ſhall uncaſe and break every hogſhead or caſk of tobacco brought to them to be inſpected as aforeſaid; and if they ſhall agree that the ſame is good, ſound, well conditioned, merchantable, and clear of trath, then ſuch tobacco ſhall be weighed in ſcales with weights of the lawful ſtandard, and the hogſhead or caſk ſhall be ſtamped in the preſence of the ſaid inſpectors, or one of them, with the name of the warehouſe at which inſpected, and alſo the tare of the hogſhead or caſk, and quantity of nett tobacco therein contained; and the inſpectors at ſuch warehouſes ſhall iſſue a receipt for each hogſhead of tobacco they ſhall paſs, if required by the owner; which receipt ſhall be in the form following, to wit:

	River,					Warehouſe,	Received of , hogſheads of crop Tobacco, marks, numbers, weights, and ſpecies as per margin; to be delivered by us to the ſaid , or his order, for exportation, when demanded. Witneſs our hands.			
the		day of		, 17 ,						
Sweet ſcented						Oronoko.				
Leaf.			Stemmed.			Leaf.				
Marks.	No.	Groſs.	Tare.	Nett.	Groſs.	Tare.	Nett.	Groſs.	Tare.	Nett.

And no inſpector or inſpectors, ſhall under any pretence whatſoever, iſſue a receipt for any tobacco other than ſuch as ſhall be printed, in which the date ſhall be inſerted at full length. And if any inſpector or inſpectors, ſhall preſume to iſſue a receipt in any other manner than is hereby expreſſed, he or they, for every ſuch offence, ſhall forfeit and pay the ſum of three hundred dollars; to be recovered with coſts, by any perſon who may ſue for the ſame, in any court of record within this ſtate: Which receipts as aforeſaid, ſhall be furniſhed by the public printer, and at the public expence: But if the ſaid two inſpectors ſhall at any time diſagree concerning the quality of any tobacco brought for their inſpection at any warehouſe under their charge, they ſhall as ſoon as conveniently may be, call in the additional inſpector appointed to attend ſuch warehouſe, who ſhall determine and paſs or reject ſuch tobacco; and if he ſhall paſs the ſame, his name ſhall be entered in a book kept by the inſpectors, oppoſite the mark, number, and weight of the hogſhead by him paſſed, together with the name of the inſpector at ſuch warehouſe who ſhall officiate with him And the inſpectors at each of the warehouſes eſtabliſhed by this act, ſhall conſtantly keep ſo many able hands at their reſpective warehouſes as the courts of the ſeveral counties wherein they lie, ſhall from time to time judge neceſſary, and direct, for the purpoſe of taking care of all tobacco brought to ſuch warehouſe, and ſtowing it away after the ſame ſhall be inſpected and ſtamped. And no inſpector ſhall by himſelf, his ſervant, or any other perſon, either directly or indirectly, be concerned in picking any refuſed tobacco, unleſs it be his own property, on any pretence whatſoever, under the penalty of being forever thereafter diſabled from holding the office of inſpector.

XVII. When any tobacco ſhall be refuſed by the inſpectors, the proprietor thereof ſhall be at liberty to ſeparate the good from the bad, but if he refuſes or neglects ſo to do within two months of ſuch refuſal, the inſpectors ſhall direct one or more of the pickers

attending the warehouſe, to pick and ſeparate ſuch refuſed tobacco, and give the owner credit for ſo much thereof as ſhall be found merchantable, after paying the pickers one twelfth part of the quantity ſaved; and the inſpectors ſhall cauſe the tobacco which ſhall by them be judged unfit to paſs, to be burned in the brick funnel, erected, or to be erected at ſuch warehouſe, under the penalty of ſeven dollars for every failure, to the informer; recoverable with coſts, before any juſtice of the county wherein ſuch warehouſe ſhall be. *Provided always*, That any picker refuſing to pick and ſeparate refuſed tobacco, when directed by an inſpector, ſhall forfeit and pay five dollars, to the uſe of the owner of ſuch tobacco; recoverable with coſts, before any juſtice of the county or corporation.

XVIII. The courts of the ſeveral counties wherein any of the public warehouſes appointed by this act are eſtabliſhed, ſhall, and they are hereby required to nominate and appoint from time to time, ſuch and ſo many perſons as to them ſhall ſeem neceſſary, who are willing to undertake the ſame, to attend the ſeveral warehouſes within this ſtate, to turn up, ſort, ſeparate and pick ſuch tobacco as ſhall be refuſed by the inſpectors. And every perſon ſo appointed a picker, ſhall make oath before the court at the time of his appointment, or at the next ſucceeding court, that he will carefully and diligently, without fraud or embezzlement, ſort and ſeparate all ſuch tobacco, as ſhall be refuſed by the inſpectors, and the owner or proprietor thereof, or the inſpectors, ſhall employ him to pick; and every picker of tobacco ſhall be allowed to demand and receive from the reſpective proprietors, twenty-one cents per hogſhead for opening, and one twelfth part of all the tobacco ſaved out of any refuſed hogſhead by him picked, for his ſervices in opening, ſorting, and picking the ſame, and no more. And no picker of tobacco ſhall keep or employ any negro or mulatto ſlave at any public warehouſe, on any pretence whatever; nor ſhall any picker preſume to hinder any perſon who may chooſe to open their own tobacco, or to pick what may be refuſed by the inſpectors, from the free uſe of the picking-houſe and prize, for the convenience of picking and prizing the ſame. And if any picker ſhall miſbehave himſelf in his ſaid office, it ſhall and may be lawful for the court of the county where ſuch picker ſhall be appointed, on complaint and motion to them made, to remove ſuch picker from his ſaid office, and to appoint another perſon to act in his room, if to them it ſhall ſeem neceſſary; and every picker ſo removed, ſhall forever after be rendered incapable of ſerving as picker at any public warehouſe; *Provided* ſuch picker hath ten days previous notice of ſuch motion; and any perſon who ſhall be aggrieved by any ſuch miſbehaviour in a picker, may make complaint thereof to any juſtice of the peace, who is hereby empowered and directed to take depoſitions therein, provided ſuch picker have notice thereof, and to tranſmit the ſame to the next court to be held for the county, where the offence ſhall be committed, to be there given in evidence on the examination into ſuch miſbehaviour. And if any perſon not being appointed and ſworn as aforeſaid, ſhall preſume to undertake the opening, ſorting, picking, or ſeparating any ſuch tobacco for hire or reward, every perſon ſo offending ſhall forfeit and pay four dollars for every ſuch offence; to be recovered by the informer, to his own uſe, before any juſtice of the peace. *Provided*, That any proprietor of tobacco, who may chooſe to open, pick and prize his own tobacco, may employ his own ſervants or ſlaves, or any other perſon or perſons, other than the hands kept by the inſpectors, to aſſiſt him in opening, picking or prizing the ſame, and the perſon or perſons ſo employed, ſhall not incur or be ſubject to the laſt mentioned, or any other penalty or forfeiture for ſo doing; and the inſpectors ſhall iſſue receipts for all tobacco ſaved by picking, to the proprietors only of ſuch tobacco, and not to the pickers of the ſame. And the inſpectors ſhall not ſuffer or permit any picker to prize up any tobacco that he ſhall have ſaved by picking, for his own uſe. And if any tobacco packed in any hogſhead or caſk by an overſeer, or the hands under his care, ſhall be burnt by the inſpectors, by reaſon of its being bad, unſound, or not in good condition, the overſeer, who had the care of making and packing the ſame, ſhall be at the loſs of the tobacco ſo burnt, and making ſatisfaction

for the ſame out of his ſhare of the crop, or otherwiſe; and the inſpectors ſhall be obliged to keep an account of all tobacco ſo burnt.

XIX. If any inſpector of tobacco ſhall in any manner be concerned as a partner with, or receive from any picker of tobacco, money or any gratuity, every inſpector herein offending, on conviction, before any court of record, ſhall forfeit and pay two thouſand dollars to the proſecutor, to be recovered by action of debt with coſts; and ſhall moreover be rendered incapable of ſerving as an inſpector. Every picker who ſhall be concerned as above with an inſpector, or who ſhall demand, take or receive any greater fee or reward for his ſervices, other than by law allowed, ſhall forfeit and pay, on conviction, to the perſon proſecuting, three hundred dollars, to be recovered in like manner, and ſhall for ever after be incapable of acting in any character at a public warehouſe.

XX. Where any tobacco ſhall be brought to any of the ſaid warehouſes for the diſcharge of any public or private debt or contract, the ſaid inſpectors, or one of them, after they have viewed, examined and weighed the ſaid tobacco, according to the directions of this act, ſhall be obliged to deliver to the perſon bringing the ſame, as many receipts under the hands of the ſaid inſpectors as ſhall be required for the full quantity of tobacco received by them, in which ſhall be expreſſed whether the tobacco ſo received, be ſweet ſcented, or Oronoko, ſtemmed or leaf; which receipt ſhall be in the form following, to wit:

RIVER, No.

warehouſe, the day of 17

"Received of , pounds of tranſfer tobacco, to "be delivered on demand to him, or to his order, according to the directions of the act, in- "tituled, "An act for mending the ſtaple of tobacco, and preventing fraud." Witneſs "our hands."

And ſhall bear date the day the tobacco for which the ſame is given ſhall be received and paſſed, and ſhall be current in all tobacco payments, according to the ſpecies expreſſed in the receipt, within the county wherein ſuch inſpectors ſhall officiate, and in any other county next adjacent thereto, and not ſeparate therefrom by any of the great rivers or bay herein after mentioned, that is to ſay: James river below the mouth of Appamattox; York below Weſt-point; Rappahannock below Taliaferro's Mount; or by the bay of Cheſapeake: and ſhall be transferable from one to another in all ſuch payments, except as herein is excepted, and ſhall be paid and ſatisfied by the inſpector or inſpectors who ſigned the ſame, upon demand. And for every hogſhead of tobacco brought to any public warehouſe and tranſferred, there ſhall be allowed by the inſpectors thereof to the perſon bringing the ſame after the rate of four pounds of tobacco, for every hundred pounds of tobacco the ſaid hogſhead ſhall contain, for the caſk, ſo as ſuch allowance do not exceed thirty pounds of tobacco, provided the caſk or hogſhead is good, and of ſuch dimenſions as is herein after expreſſed; and the ſaid inſpectors ſhall, and they are hereby obliged to make every hogſhead by them paid away in diſcharge of any receipt by them given as aforeſaid, to contain one thouſand pounds of nett tobacco at the leaſt; and for every hogſhead of tobacco by them paid away, well lined and nailed, fit for ſhipping, there ſhall be paid by the perſon ſhipping ſuch hogſhead, one dollar for inſpection, and fifty-eight cents for prizing, and nails; which ſaid ſum of fifty-eight cents, the inſpectors may retain in their hands for their own uſe, to reimburſe them the expence and trouble of providing nails and prizing. And the perſon demanding or receiving tobacco in diſcharge of receipts as aforeſaid, ſhall allow to the inſpectors thirty pounds of tobacco for each hogſhead ſo received, for the caſk, and two pounds of tobacco for every hundred pounds of tobacco contained in ſuch receipts, and ſo in proportion for a greater or leſſer quantity, for ſhrinkage and waſting, if the ſaid tobac-

co be paid within two months after the date of the receipt given for the ſame, and one pound of tobacco for every hundred, for every month the ſame ſhall be unpaid after the ſaid allowance; ſo as ſuch allowance for ſhrinkage and waſting do not exceed in the whole ſix pounds of tobacco for every hundred. And if any inſpector or inſpectors, by whom any ſuch receipts for tobacco as aforeſaid ſhall be ſigned, ſhall refuſe or delay to pay and ſatisfy the ſame when demanded, every inſpector ſo refuſing or delaying, ſhall forfeit and pay to the party injured, double the tobacco ſo refuſed or delayed to be paid, to be recovered with coſts in any court of record within this ſtate, if the receipt or receipts ſo refuſed or delayed to be paid, exceed two hundred pounds of tobacco; and if the ſaid receipt or receipts do not exceed two hundred pounds of tobacco, the double value aforeſaid ſhall and may be recovered before any juſtice of the peace of the county wherein the warehouſe ſhall be, at which the receipt or receipts ought to be paid.

XXI. All tobacco brought to any of the ſaid warehouſes in hogſheads to be exported, on account, and for the uſe of the owner thereof, after the ſame ſhall have been received, examined, found to be good, and weighed, ſhall be ſtamped as herein before directed; and the ſaid inſpectors, or one of them, ſhall deliver to the perſon bringing the ſame, as many receipts, ſigned as aforeſaid, as ſhall be required for the number of hogſheads ſo brought and ſtamped, in which ſhall be expreſſed, whether the tobacco ſo received, be ſweet ſcented or Oronoko, ſtemmed or leaf, and whether the ſame be tied up in bundles or not; and where any hogſhead hath part leaf and part ſtemmed, ſhall ſignify the ſame at the bottom of the receipt; and they ſhall not mix ſtemmed and leaf tobacco in any hogſhead which they ſhall prize, and pay away in diſcharge of their tranſfer receipts; and for every hogſhead brought to any of the ſaid warehouſes, to be exported by land or by water out of this ſtate, there ſhall be paid to the inſpectors attending at ſuch warehouſes, by the exporter, at the time of demanding the ſame for exportion, the ſum of one dollar, and the owners of the tobacco ſhall find and provide nails ſufficient for ſecuring and nailing thereof; and where they ſhall fail ſo to do, the inſpectors at ſuch warehouſe, ſhall furniſh nails for the purpoſe aforeſaid, and ſhall be allowed and paid by the owner, thirteen cents for each hogſhead ſo ſecured. And if any inſpector or inſpectors, ſhall alter, change or deliver out any hogſhead of tobacco, other than the hogſhead for which the receipt for crop tobacco to be taken in, was by him or them given; or ſhall alter or change any ſuch tobacco, although no ſuch receipt ſhall have been given, ſuch inſpector or inſpectors ſhall forfeit and pay one hundred and fifty dollars for every hogſhead ſo altered, changed or delivered out. And if any inſpector ſhall fail or refuſe to deliver any hogſhead of tobacco, when the ſame ſhall be demanded for exportation, ſuch inſpectors ſhall forfeit and pay to the owner thereof, double the value of the tobacco, which they ſhall ſo refuſe or fail to deliver. And all inſpectors ſhall, and they are hereby obliged, if required, to take in any receipt or receipts by them given for crop tobacco; and after having weighed ſuch tobacco, to give tranſfer receipts for the ſame, with an allowance of four per centum for the caſk; ſo as ſuch allowance do not exceed thirty pounds of tobacco for every caſk. *Provided*, that ſuch hogſhead ſhall contain, at leaſt, one thouſand pounds of nett tobacco, and not mixed leaf and ſtemmed. *Provided nevertheleſs*, that no inſpectors ſhall give their receipt or receipts for any tranſfer or crop tobacco, which ſhall be opened or picked by any picker legally appointed, until the proprietor of ſuch tobacco, or his or her agent, ſhall have firſt paid or tendered to ſuch picker, his lawful charges for opening or picking the ſame. And in the abſence of any ſuch picker, a payment, or tender to any of the inſpectors there attending, for the uſe of the picker, ſhall be as effectual as if made to ſuch picker in perſon. And if any inſpectors ſhall deliver their receipt or receipts for any ſuch tabacco, ſo opened or picked, before ſuch payment or tender be made, they ſhall be liable to ſuch picker for the amount of the ſame.

XXII. And for reſtraining the undue practice of mixing traſh with ſtemmed tobacco, and preventing the packing of tobacco in unſizeable caſks: All ſtemmed tobacco not laid ſtraight, whether the ſame be packed looſe, or in bundles, ſhall be accounted unlawful tobacco; and that no tobacco packed in hogſheads, which exceed fifty inches in the length of the ſtave, or thirty-two inches at the head, within the crow, making reaſonable allowance for prizing, which allowance ſhall not exceed two inches above the gauge, in the prizing head, ſhall be paſſed or received; but the owner of ſuch tobacco, packed in caſks of greater dimenſions than before expreſſed, ſhall be obliged to repack the ſame in ſizeable caſks, at his own charge, before the ſame ſhall be received or ſtamped by the inſpectors.

XXIII. And whereas many and great inconveniencies have ariſen from inſpectors undertaking to deliver tobacco, the property of others, in their warehouſes, without order from the proprietors of the ſame: If any inſpector ſhall preſume to deliver any tobacco in his warehouſe, without order from the owner or proprietor of ſuch tobacco, every inſpector ſo offending, and being thereof duly convicted in the court of the county wherein he officiates, is declared incapable of ſerving forever after as inſpector in this ſtate, and moreover ſhall be liable to the penalty of one hundred and fifty dollars for every hogſhead of tobacco ſo as aforeſaid delivered without order of the owner or proprietor thereof; to be recovered by ſuch owner or proprietor thereof, if he or ſhe ſhall proſecute within four months after the offence committed; or if he or ſhe decline the proſecution, then after that time, by any perſon who ſhall inform or ſue for the ſame, by action of debt or information, in any court of record within this commonwealth. And if any inſpector ſhall deliver any transfer receipts or notes of credit for tobacco, to any perſon or perſons, unleſs at the time of delivering the ſame, he ſhall have actually and bona fide received and paſſed tobacco, the property of him, her, or them, in whoſe name or names ſuch receipts or notes ſhall be made out, to the full amount of the quantity therein ſpecified, every inſpector ſo offending, and being duly convicted, ſhall be diſabled from ſerving as an inſpector, and moreover ſhall forfeit twenty dollars for every hundred weight of tobacco ſuch fictitious notes ſhall expreſs, to any perſon who will ſue for the ſame; recoverable by action of debt, in any court of record.

XXIV. The owners of any transfer receipts, may, at any time before the ſale of the tobacco contained in ſuch transfer receipts, as hereinafter is directed, receive and mark hogſheads of tobacco to ſatisfy ſuch receipts; and the inſpectors ſhall take in their former receipts, and deliver crop receipts for ſuch hogſheads, and ſhall be anſwerable for the ſafe keeping thereof, in the ſame manner as they are for crop tobacco; but the perſons receiving ſuch hogſheads ſhall pay to the inſpectors one dollar and fifty-eight cents, for the inſpection and nails for every hogſhead, that is to ſay, fifty-eight cents down to the inſpectors for their own uſe for the nails and their trouble in prizing, and one dollar as inſpection, when the tobacco is delivered. And the inſpectors ſhall at the court held for their county in the month of September yearly, or if there be no court in that month, then at the next court held for their county, lay before the court an account upon oath, of all transfer receipts that were not by them taken in and received before the time of ſale herein before mentioned: And after ſuch account exhibited and oath made, ſhall ſell the tobacco in ſuch receipts contained, deducting the allowance for ſhrinkage and waſting, at public auction, at the door of the courthouſe, between the hours of twelve and two; and the inſpectors ſhall pay the money ariſing by ſuch ſale, in ſatisfaction of their receipts, from time to time, to the proprietors thereof, making their demand, under the ſame penalty as is inflicted for not paying inſpectors receipts. And all inſpectors ſhall keep a juſt and true account of the tobacco gained or ſaved upon the allowance made for caſk and for ſhrinkage, and for transfer tobacco, or otherwiſe; and if any tobacco ſhall be ſo gained or ſaved, ſhall

exhibit an account thereof, and ſhall alſo ſell the tobacco ſo gained and ſaved, in the manner as is directed for the ſale of tranſfer tobacco, and ſhall account for the money ariſing by ſuch ſale to the treaſurer of this ſtate for the time being, in their next account with him; and the ſaid treaſurer ſhall account for the ſame to the general aſſembly; and no inſpector ſhall convert any tobacco ſo gained to his own uſe.

XXV. All inſpectors ſhall before the tenth day of October, in every year, account with the treaſurer of this ſtate upon oath, for all monies received, or which ought to be received by them, by virtue of this act, except the money paid for nails, and for their trouble in prizing, or for repacking damaged tobacco, which ſhall be relanded at their inſpections, for every hogſhead of tranſfer tobacco; in which account they ſhall be allowed their ſalaries, the rents of the warehouſes, and all other neceſſary diſburſements in purſuance of this act. And in order to eaſe the inſpectors giving their perſonal attendance at the treaſury, they are hereby required, after ſtating their accounts with the treaſurer, as above directed, to take the following oath before ſome one juſtice of the peace of the county where they officiate, to wit:

"We A. B. and C. D. do ſwear, that the account now produced, contains an exact "ſtate of all the tobacco ſhipped the preceding year from warehouſe, all "taxes received, or due for the ſame, alſo all tobacco gained at the ſaid inſpection by any "means whatſoever. So help us God."

And the juſtice of the peace before whom they are ſworn, ſhall, and he is hereby required, to certify on the ſaid account, that they have taken this oath.

XXVI. The ſeveral inſpectors of tobacco in this ſtate, ſhall annually, at the time of ſettling their accounts with the treaſurer, deliver to him an account, upon oath, of all the tobacco ſhipped from their reſpective warehouſes within the year preceding, containing the number of hogſheads or caſks ſent on board each ſhip or veſſel reſpectively; and every inſpector failing therein, ſhall forfeit and pay the ſum of one hundred and fifty dollars.

XXVII. And any juſtice of the peace of any county near the place where any ſhip or other veſſel ſhall ride, upon information made to him upon oath, by any free man, that there is good cauſe to ſuſpect any tobacco uninſpected, in caſk, bulk, or parcels, to be on board ſuch ſhip or other veſſel, ſhall, and he is hereby empowered and required to grant his warrant, directed to the ſheriff or any conſtable of his county; and the ſheriff or conſtable ſhall have full power and authority, and he is hereby required to enter and go on board of ſuch ſhip or veſſel, to ſearch for, and ſeize ſuch tobacco, and the ſame being ſeized, ſhall be brought on ſhore and carried befor the ſame, or any other juſtice who ſhall cauſe the ſaid tobacco to be carried to the neareſt warehouſe, and there inſpected, and if paſſed, reſtored to the owner, in caſe he ſhall be innocent of the fraud; but if he ſhall appear to have been concerned in ſuch fraud, or if no owner ſhall claim within three months, the ſaid tobacco ſhall be ſold by the inſpectors, and the money ariſing from ſuch ſale be paid into the public treaſury, and accounted for to the general aſſembly. And the commanding officer or ſkipper of any ſhip or veſſel, on board which ſuch tobacco is found, ſhall forfeit to the informer twenty dollars for every hundred weight, and ſo in proportion for a leſs quantity; to be recovered with coſts in any court of record, if it be five dollars or more. And if any maſter or commanding officer, or ſkipper, of any ſhip or veſſel, or any other perſon whatſoever, ſhall reſiſt the officer in the execution of any ſuch warrant, every ſuch maſter, commanding officer or ſkipper, ſhall forfeit and pay ſix hundred dollars; and every ſailor or other perſon ſo reſiſting, ſhall forfeit and pay eighty dollars. And if any action ſhall be brought againſt any juſtice of the peace, ſheriff or conſtable, for doing any thing in execution of this act, the defendant may plead the general iſſue, and give this act in evidence; and if the plaintiff ſhall be non-ſuited, or a verdict paſs againſt him, or a judgment on demurrer, the defendant ſhall recover double coſts.

XXVIII. Where any tobacco hath remained, or ſhall hereafter remain undemanded in a public warehouſe two years after the ſame hath been, or ſhall be inſpected, the inſpectors ſhall adverti ſe in the Virginia gazette for three weeks ſucceſſively, a liſt of the marks, numbers, and weights of ſuch tobac o, with the names of the perſons for whom it was inſpected; and if no owner appears to claim the ſame within three months, they ſhall at the next court to be held for the county in which ſuch warehouſe ſhall be, after the expiration thereof, and advertiſing as aforeſaid, deliver to the court the like liſt, which court is hereby empowered and required, to order the ſame to be publicly ſold at the court-houſe door, on a court day, to the higheſt bidder; the clerk of ſuch court ſhall tranſmit within three months to the auditor of public accounts, a liſt of ſuch tobacco ſo directed by the court to be ſold; and the money ariſing from the ſale thereof, ſhall be paid by the inſpectors to the treaſurer of this ſtate for the time being, who ſhall account for the ſame, from time to time, to the general aſſembly. And if any perſon, having a right to any tobacco ſo ſold, ſhall prove his property therein, the ſaid treaſurer ſhall repay to ſuch perſon the money for which ſuch tobacco was ſold.

XXIX. No perſon taking upon himſelf the office of inſpector, ſhall during his continuance in that office, or until he hath obtained a quietus from the treaſury, be capable of being elected a member of either houſe of aſſembly, or ſhall preſume to intermeddle, or concern himſelf with an election of a member or members of either of the ſaid houſes, otherwiſe than by giving his vote, or ſhall endeavor to influence any perſon or perſons in giving his or their vote, under the penalty of one hundred and fifty dollars for every offence; nor ſhall any inſpector by himſelf, or any perſon for him, be allowed to keep an ordinary, or houſe of entertainment, at or near the warehouſe where he is an inſpector; and every inſpector herein offending, ſhall be incapable of ſerving in that office; neither ſhall any inſpector during his continuance, be, or undertake to be a ſheriff, juſtice of the peace, collector of any public tax, other than what relates to any ſuch office, county levies, or poor rates, or any officers fees; nor ſhall directly or indirectly for himſelf, or for any other perſon, buy, or receive by way of barter, loan or exchange, any tobacco whatſoever, under the penalty of ten dollars, for every hundred weight of tobacco ſo bought or received. *Provided*, That nothing herein contained, ſhall be conſtrued to hinder any inſpector from receiving his rents in tobacco, which ſhall be firſt viewed, examined and ſtamped according to the directions of this act.

XXX. And for the further and better direction of the inſpectors aforeſaid in their duty, no inſpector ſhall take, accept, or receive, directly or indirectly, any gratuity, fee, or reward, for any thing by him to be done in purſuance of this act, other than his ſalary and the other payments and allowances herein before mentioned and expreſſed; and if any inſpector ſhall take, accept, or receive any ſuch gratuity, fee or reward, ſuch inſpector being thereof convicted, ſhall forfeit and pay the ſum of three hundred dollars; to be recovered with coſts, by any perſon or perſons who ſhall inform and ſue for the ſame, by action of debt or information, in any court of record within this commonwealth, and moreover ſhall be diſabled from holding the office of inſpector during the continuance of this act. And if any perſon ſhall offer any bribe, reward or gratuity, to any inſpector for any thing by him to be done in purſuance of this act, other than the fees and allowances herein before directed, every perſon ſo offending, and being thereof convicted, ſhall for every ſuch offence, forfeit and pay the ſum of ſixty dollars; to be recovered in any court of record within this ſtate; one half of which forfeiture ſhall be to and for the uſe of ſuch inſpector refuſing ſuch bribe or reward, and the other half to the perſon who will inform and ſue for the ſame. And there ſhall be paid to each of the inſpectors appointed to attend, and attending the ſaid ſeveral warehouſes, the ſalaries herein after mentioned, that is to ſay:— At Pitt's, Guildford, and Pungoteague, under one inſpection, one hundred and ſixteen dollars and ſixty-ſeven cents; at Roy's, two hundred dollars; at Bolling's Point, two hun-

dred and ſixty-ſix dollars and ſixty-ſeven cents; at Bollingbrook's, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Cedar-point, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Hobb's-hole, one hundred and ſixteen dollars and ſixty-ſeven cents; at Bowler's, one hundred dollars; at Layton's, one hundred dollars; at Colcheſter, one hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Alexandria, two hundred dollars; at the falls of Patowmack, one hundred and thirty-three dollars and thirty-three cents; at Poropotank, one hundred dollars; at Deacon's Neck, one hundred dollars; at Page's, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Crutchfield's, two hundred dollars; at Meriwether's, two hundred dollars; at Rocky-Ridge, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Oſborne's, two hundred dollars; at John Bolling's, two hundred and thirty-three dollars and thirty-three cents; at Manchester warehouſe, two hundred and ſixty ſix dollars and ſixty-ſeven cents; at Trent's warehouſe, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Johnſon's, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Byrd's, two hundred and ſixty-ſix dollars and ſixty ſeven cents; at Sheckœ, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Rockett's, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Smithfield and Fulgham's, under one inſpection, one hundred and thirty three dollars and thirty-three cents; at Shepherd's, one hundred dollars; at Mantapike and Frazer's, under one inſpection, one hundred and fifty dollars; at Todd's and Aylett's, under one inſpection, one hundred and fifty dollars; at Boyd's-hole and Machodack, under one inſpection, one hundred and fifty dollars; at Gibſon's one hundred dollars; at Davis's and Lowry's, under one inſpection, one hundred dollars; at Deep creek and Glaſſcock's, under one inſpection, one hundred and ſixteen dollars and ſixty ſeven cents; at North and South Wicomico, under one inſpection, one hundred and thirty-three dollars and thirty three cents; at Coan's, one hundred and ſixteen dollars and ſixty-ſeven cents; at Indian creek and Dymer's, under one inſpection, one hundred dollars; at Urbanna, one hundred dollars; at Kemp's warehouſe on Pianketank, fifty dollars, at Milner's, one hundred and thirty-three dollars and thirty three cents; at Suffolk, one hundred and thirty-three dollars and thirty-three cents; at Cherryſtone's and Naſwaddox, under one inſpection, one hundred and ſixteen dollars and ſixty-ſeven cents; at Littlepage's, one hundred and ſixteen dollars and ſixty-ſeven cents; at the Brick-houſe, one hundred dollars; at Hood's, one hundred dollars; at Boyd's, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Davis's two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Blandford, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Quantico, two hundred and thirty-three dollars and thirty-three cents; at Dumfries, two hundred and thirty-three dollars and thirty-three cents; at M'Rae's, two hundred dollars; at Bullett's, one hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Cat point, one hundred dollars; at Totuſkee, one hundred dollars; at Gray's creek, one hundred and ſixteen dollars and ſixty-ſeven cents; at Low point, one hundred and thirty-three dollars and thirty-three cents; at Falmouth, two hundred dollars; at Acquia, one hundred and ſixty-ſix dollars and ſixty-ſeven cents; at Dixon's, two hundred dollars; at Frederickſburg, two hundred and thirty three dollars and thirty-three cents; at Royſton's two hundred and thirty-three dollars and thirty-three cents; at Nomony, one hundred dollars; at Leed's and Mattox, under one inſpection, one hundred and ſixty-ſix dollars and ſixty ſeven cents; at Yeocomico and Kinſale, under one inſpection, one hundred and thirty-three dollars and thirty-three cents; at the College Landing, eighty-three dollars and thirty-three cents; at York-town, eighty-three dollars and thirty-three cents; at Hampton, fifty dollars; at Crow's warehouſe and at Creſap's, the inſpectors ſhall receive for each hogſhead by them inſpected, the ſum of ſixty-ſeven cents, ſeventeen cents whereof ſhall be paid to the proprietor for the rent of the warehouſe, and the reſidue for their own uſe; at Romney, fifty dollars; at Lynch's, two hundred and twenty dollars; at Rivanna, one hundred and thirty-three dollars and thirty-three cents; at Swan creek, one hundred and thirty three dollars and thirty-three cents; at Mecklen-

burg, one hundred dollars; at Barksdale's, two hundred and sixty-six dollars and sixty-seven cents; at West-hill, two hundred and sixty-six dollars and sixty-seven cents; at High-street, two hundred and sixty dollars and sixty-seven cents; at West-brook, two hundred and sixty-six dollars and sixty-seven cents; at Petersburg, two hundred and sixty-six dollars and sixty-seven cents; at Hendelson's, one hundred and thirty-three dollars and thirty-three cents; at Nicholas's, one hundred and thirty-three dollars and thirty-three cents; at Morgan-town, fifty dollars; at Great Falls, one hundred and thirty-three dollars and thirty-three cents; at Woodson's, one hundred and sixty-six dollars and sixty-seven cents; at Portsmouth, one hundred dollars; at Thornton's, one hundred and sixty-six dollars and sixty-seven cents; at Amherst, one hundred dollars; at Booker's, one hundred and thirty-three dollars and thirty-three cents; at Horsley's, one hundred dollars.

XXXI. *Provided always*, That if the quantity of tobacco, which shall be received at any warehouse already established, or hereafter to be established, shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

XXXII. The inspectors at the several warehouses, established above the falls of James river, upon the delivery of their notes, or an order where notes have not been issued, shall deliver the tobacco for transportation, with a printed manifest, descriptive of the owner's name, the name of the skipper of the batteau or canoe, if transported by water, or if waggoned, the name of the waggoner, to what warehouse or port the same is destined, and to whom to be delivered; the said manifest shall moreover express the marks, numbers, and weights of the tobacco, and each hogshead shall be stamped with the name of the warehouse at which it was inspected; which manifest shall, by the skipper or waggoner, (as the case may be) if the tobacco is intended to be sent to any warehouse heretofore established, be delivered to the inspectors thereof, who are hereby required to receive the same, and grant a receipt therefor, and enter such tobacco in a separate book to be by them provided and kept for that purpose, and on the receipt aforesaid being presented, shall deliver the said tobacco with such manifests, as by law are required for other tobacco lodged in their warehouses for exportation, when required, and may demand for all such tobacco the same warehouse rent as for other tobacco by them inspected. *Provided always*, that nothing in this act contained, shall be construed to prevent any owner of tobacco passed at the said inspections, who has previously paid the legal duties, from exporting, selling, or storing the same in any private warehouse, without being obliged to store it in any warehouse heretofore established.

XXXIII. The owners of such tobacco, previous to the delivery thereof, shall procure a duplicate of the manifest, with a certificate from the inspectors, that the duties imposed by law have been paid; which certificate, with all others granted in similar cases, shall be lodged with the clerk of the court of that county where the tobacco was inspected, to be by him transmitted to the auditor of public accounts, on or before the twenty fifth day of October, annually, to be by him compared with the inspectors accounts. And in case the owner of the tobacco shall suspect any fraud to have been practised or used by any skipper or waggoner in the transportation thereof from either of the said warehouses, it shall be lawful for the inspectors at any warehouse to which the same may be brought, and they are hereby required, at the request of such owner, to reinspect and weigh the same, and if found to be damaged or embezzled, the inspectors shall not enter the same in their books, but it shall remain subject to the directions of the owner, in like manner as other damaged tobacco.

XXXIV. The appointment of inspectors, and all other regulations appertaining to the said warehouses, shall be the same as are provided for by any law for other inspections, so far as the same do not contravene this act. All tobacco inspected at either of the said warehouses, shall be subject to the same duties and imposts, and be collected and accounted for by the inspectors in the same manner, and under the like penalties, as are directed and

preſcribed for other warehouſes heretofore eſtabliſhed. And the inſpectors at each of the ſaid warehouſes, may demand and receive for each hogſhead by them inſpected, the ſum of ſixty-ſeven cents, ſeventeen cents whereof, to be by them accounted for and paid to the proprietor for the rent of the warehouſe, and the reſidue for their own uſe. *Provided nevertheleſs*, that no perſon ſhall be obliged to receive any notes paſſed at any of the ſaid warehouſes, in diſcharge of any tobacco contracts heretofore entered into.

XXXV. The inſpectors of the ſeveral warehouſes within this commonwealth, ſhall deliver any inſpected tobacco to any perſon or perſons who ſhall duly demand the ſame, by delivery of the notes or otherwiſe, for the purpoſe of manufacturing it and grant him or them a manifeſt therefor, upon ſuch perſons paying the uſual duties, and lodging with them a certificate of his or their having, before ſome court of record within this commonwealth, entered into a bond with ſufficient ſecurity, in the penalty of fifteen hundred dollars, payable to the governor and his ſucceſſors, for the uſe of the commonwealth, with condition that he or they will not export, or cauſe, or ſuffer to be exported, either by land or water, any tobacco received by him or them, for the purpoſe of manufacturing, until it has been manufactured.

XXXVI. And for the better detecting inſpectors who ſhall not do their duty, and for the more ſpeedy and eaſy examination into complaints againſt them; any two juſtices of the peace ſhall have power to hear all complaints againſt any inſpector within their county, and to take the depoſitions of witneſſes upon the matter, of ſuch complaint on both ſides, which ſhall be tranſmitted by them to the governor and council, for their determination. And to the end ſuch depoſitions may be taken in the beſt manner, the clerk of the county, or ſome ſufficient perſon by him to be appointed, ſhall attend the ſaid juſtices for that purpoſe, and be paid by the county the ſame fees as are or ſhall be by law eſtabliſhed for attending the examination of witneſſes upon a dedimus poteſtatem. And moreover any two juſtices ſhall have power to viſit all or any of the public warehouſes within their county, and if they ſhall diſcover any negligence in the inſpectors, either in ſecuring the tobacco, or ſtowing the ſame away in a proper manner for ſaving the room in ſuch houſes, or that they are guilty of any other breach or breaches of their duty, the juſtices ſhall certify the governor and council thereof. And if any inſpector ſhall be adjudged guilty of a breach of his duty, he ſhall be removed from his office, and be forever after incapable of ſerving as an inſpector. And if any inſpector ſhall be removed from his office, upon a complaint and proſecution againſt him in the method by this act preſcribed, he ſhall be liable to the action on the caſe of the proſecutor for his neceſſary coſts and expences in ſuch proſecution, in which the proſecutor ſhall recover his full coſts of ſuit; but if the inſpector or inſpectors ſhall be acquitted upon ſuch examination, the proſecutor ſhall be liable to the action of ſuch inſpector or inſpectors, for the recovery of all damages and expences which he or they ſhall have ſuſtained or been put to by ſuch proſecution and coſts, unleſs the governor and council ſhall certify that there was reaſonable cauſe for ſuch complaint; and every inſpector ſhall moreover be liable to the action of the party grieved for all loſs and damage that may happen or ariſe to any perſon, by occaſion of any failure of duty, or neglect of any ſuch inſpector; in which action the plaintiff ſhall recover his full coſts, although the damage do not exceed ſeven dollars.

XXXVII. If any of the warehouſes herein before mentioned, ſhall happen to be burnt, the loſs ſuſtained thereby ſhall be made good, and repaid to the ſeveral perſons injured, by the general aſſembly; and in caſe of ſuch accident, no inſpector ſhall be ſued or moleſted for, or by reaſon of any receipts by them given, or for any tobacco burnt in any of the ſaid warehouſes, but ſhall be altogether acquitted and diſcharged of, and from the payment of the tobacco mentioned in ſuch receipts; any thing herein before contained to the contrary, notwithſtanding. *Provided always*, that if the receipts for tobacco ſo burnt or

deſtroyed, ſhall be of an older date than twelve months, the tobacco ſhall not be paid for by the public, but the owner or proprietor thereof ſhall bear the loſs.

XXXVIII. The inſpectors ſhall not permit the proprietor or any other perſon to make uſe of the warehouſe at which they are inſpectors; and if any warehouſe ſhall hereafter happen to be burnt, and it ſhall appear that ſuch warehouſe was burnt by means of the inſpectors permitting the proprietor or any other perſon to make uſe thereof, or by the negligence or voluntary act or permiſſion of ſuch inſpectors, then the eſtates of ſuch inſpectors ſhall be ſubjected to pay to the treaſurer for the time being, all ſuch ſum or ſums of money as ſhall have been paid to the perſon or perſons, ſo injured, to be recovered by ſuch treaſurer, by action of debt in any court of record within this commonwealth.

XXXIX. If any perſon hereafter ſhall make any fire within any public warehouſe, or without doors, within one hundred yards of ſuch warehouſe, other than in the inſpectors counting-room, ſquares, or funnels, ſuch perſon, if a free man, ſhall, for every ſuch offence, forfeit and pay thirty dollars; to be recovered with coſts by action of debt or information in any court of record within this ſtate, by the informer, to his own uſe; and if a ſervant or ſlave, he or ſhe ſhall, by order of any juſtice of the peace, receive on his or her bare back twenty laſhes for every ſuch offence. And it ſhall not be lawful for any perſon whatſoever to erect or build, or cauſe to be erected or built, any wooden chimney or chimnies within two hundred yards of any public warehouſe; and where any ſuch are already built within the diſtance aforeſaid, of any public warehouſe, the owner or proprietor thereof ſhall pull down the ſame, or on refuſal or neglect ſo to do within one month after the paſſing of this act, it ſhall be lawful for the ſheriff of the county, and he is hereby required, to cauſe ſuch chimney or chimnies to be pulled down and demoliſhed.

XL. If any inſpector or inſpectors ſhall give, deliver, or iſſue to any perſon whatſoever, his or their receipt expreſſed to be for any hogſhead or caſk of tobacco, or for any quantity of tranſfer tobacco, which they have not actually received into the warehouſe whereof they are inſpectors, at the time of giving ſuch receipt, or ſhall give, deliver, iſſue, or cauſe or procure to be given, delivered, or iſſued, more than one receipt for any hogſhead or caſk of tobacco, or quantity of tranſfer tobacco by him or them received, except where authoriſed by law ſo to do, ſuch inſpector or inſpectors, being thereof convicted by due courſe of law, ſhall be adjudged a felon, and ſhall ſuffer death as in caſe of felony, without benefit of clergy.

XLI. If any inſpector's receipt be caſually laſt, miſlaid, or deſtroyed, the perſon or perſons entitled to receive the tobacco by virtue of any ſuch receipt, ſhall make oath before any juſtice of the peace of the county where the ſame is payable, to the number and date of every ſuch receipt, to whom and where payable, and for what quantity of tobacco the ſame was given, and that ſuch receipt is loſt, miſlaid, or deſtroyed, and that he, ſhe or they, at the time ſuch receipt was loſt, miſlaid, or deſtroyed, was lawfully entitled to receive the tobacco therein mentioned, and ſhall take a certificate thereof from ſuch juſtice, and ſhall adverti ſe the loſs of ſuch receipt, at the courthouſe of the county in which ſuch inſpection may be, on the court day, and at the inſpection where the tobacco was brought, for four weeks ſucceſſively; and ſhall moreover give bond with ſufficient ſecurity to the inſpectors in double the amount of the tobacco ſo claimed, to indemnify the perſon who may thereafter produce the original receipt within twelve months after notice given of the loſs of ſuch receipt, the value by him paid for the ſame, when a duplicate of the ſaid receipt ſhall be granted by the inſpectors to the perſon or perſons entitled to receive the tobacco by virtue of ſuch original receipt, and not otherwiſe. The bond ſo taken ſhall be aſſignable by the inſpectors taking the ſame to the perſon producing the original receipt, who may maintain an action of debt thereupon, and ſuch aſſignment ſhall exonerate the inſpectors from any claim or demand againſt them by virtue of the original receipt. *Provided neverthele ſs*, That if the principal and ſecurity ſhould at the time of taking ſuch bond be inſufficient, that in

that caſe the inſpectors ſhall be reſponſible for the value of the tobacco to the perſon producing ſuch original receipt. And if any perſon ſhall be convicted of making a falſe oath, or producing a forged certificate in the caſe aforeſaid, ſuch perſon ſhall ſuffer as in caſe of wilful and corrupt perjury.

XLII. When any new inſpectors ſhall be appointed at any of the ſaid warehouſes, ſuch inſpectors ſhall, and they are hereby required, to give to the perſon or perſons whom they ſhall ſucceed, a receipt with his or their hands ſubſcribed, containing the numbers, marks, groſs, tare, and nett weight, of all and every hogſhead or caſk of tobacco which ſhall be then remaining at the warehouſe or warehouſes, at which they are appointed inſpectors, with the delivery and payment of which ſaid hogſheads or caſks of tobacco ſo remaining, he or they ſhall from thenceforth be chargeable and liable; but he or they ſhall in no wiſe be accountable or anſwerable for the loſs of weight, or for quality of tobacco contained in any hogſhead or caſk, for which receipt was by him or them ſo as aforeſaid given. And if any hogſhead or caſk of tobacco ſhall hereafter be received by any perſon or perſons whatſoever, and delivered out of any of the ſaid warehouſes for exportation by the inſpector or inſpectors attending the ſame, ſuch inſpector or inſpectors from the time of ſuch delivery, ſhall be forever diſcharged and acquitted from all actions, coſts, and charges, for, or by reaſon of the tobacco contained in any ſuch hogſhead or caſk being unſound and unmerchantable, or of leſs quantity than the receipts given for the ſame ſhall ſpecify; any thing herein before contained to the contrary, notwithſtanding.

XLIII. And when any prized tobacco ſhall be brought to any public warehouſe, in order to be ſhipped on freight or otherwiſe, and the inſpectors there attending ſhall refuſe to paſs ſuch tobacco, ſuch as ſhall be bad and unmerchantable, ſhall be picked and ſeparated from the reſt; or where any light crop tobacco ſhall hereafter be brought to any of the ſaid warehouſes, in either caſe, the ſaid inſpectors, if required, ſhall permit the owner or other perſon bringing ſuch tobacco, to make uſe of one or more of their prizes, for the repacking, prizing, or making heavier ſuch tobacco, without fee or reward; and if there ſhall be ſeveral hogſheads of tobacco belonging to ſeveral owners, to be picked, repacked, or prized at any public warehouſe, the owner or other perſon bringing the ſame, whoſe tobacco ſhall be firſt viewed and refuſed, or found light, ſhall be firſt permitted and allowed to make uſe of ſuch prize or prizes for the purpoſes aforeſaid; and no inſpector ſhall take or convert to his own uſe, or otherwiſe diſpoſe of, any draughts or ſamples of transfer or crop tobacco, but the ſame, if fit to paſs, ſhall be put into the hogſhead or bulk out of which it was drawn, under the penalty of forfeiting four dollars for every draught ſo taken away, and not returned as aforeſaid, contrary to the directions of this act; to be recovered by the informer, one moiety to his own uſe, and the other moiety to the uſe of the proprietor of ſuch tobacco, before any juſtice of the peace of the county wherein ſuch offence ſhall be committed. And all inſpectors, if required, ſhall alter the mark and number of any hogſhead of reprized tobacco for which they have before given a receipt; and for preventing confuſion and miſtakes, ſhall keep a waſte book, in which ſhall be entered the marks and numbers of all hogſheads of tobacco received by them, and another book in which ſhall be entered the marks, numbers, and weights thereof, when the ſame ſhall be delivered out by them; and all inſpectors, when required, ſhall be obliged to prize any light hogſhead of tobacco under one thouſand pounds, ſo as to make it up the weight one thouſand pounds nett, but ſhall receive the ſame fee upon ſuch hogſhead, as for transfer tobacco. And when any tobacco ſhall be brought to the warehouſe by the overſeer of the owner thereof, the inſpectors ſhall give receipts in the name of the owner, and not of the overſeer.

XLIV. The inſpectors of tobacco at the ſeveral warehouſes within this ſtate, ſhall immediately on the delivery of every hogſhead of tobacco at the warehouſe whereof they are inſpectors, give a receipt for ſuch tobacco, if required by the proprietor or perſon bringing

the ſame to the ſaid warehouſes, expreſſing therein that the ſame is for uninſpected tobacco; every inſpector refuſing ſo to do, ſhall forfeit and pay to the owner of ſuch tobacco, the ſum of four dollars.

XLV. Every maſter, mate, or boatſwain of any ſhip or other veſſel, which ſhall arrive in this ſtate in order to load tobacco, ſhall, before the ſaid ſhip or other veſſel be permitted to take on board any tobacco whatſoever, make oath before the collector of the port wherein ſuch ſhip or other veſſel ſhall arrive (which oath the ſaid collector is hereby empowered and required to adminiſter) that they will not permit any tobacco whatſoever to be taken on board their reſpective ſhips or veſſels, except the ſame be packed in hogſheads or caſks, ſtamped by ſome inſpector legally thereunto appointed; which oath they ſhall ſubſcribe in a book to be kept by the ſaid collector for that purpoſe; and if any maſter ſhall cauſe any perſon who is not really and bona fide mate or boatſwain, to come on ſhore and take ſuch oath, he ſhall, for the ſaid offence, forfeit and pay fifteen hundred dollars.

XLVI. If any perſon not being a ſervant or ſlave, taking upon himſelf to carry any tobacco to or from any of the ſaid warehouſes in his boat or other veſſel for hire, ſhall take on board, or permit, or ſuffer to be taken on board, any tobacco whatſoever, in bulk or parcels, ſuch tobacco ſhall not only be forfeited, and may be ſeized by any perſon or perſons whatſoever, but the maſter or ſkipper offending herein, ſhall forfeit and pay fifty cents for every pound weight of ſuch tobacco; and the maſter or commander of any ſhip or veſſel, wherein any tobacco in bulk or parcels ſhall be found, ſhall, over and above the forfeiture thereof, be ſubject and liable to the ſame penalty; to be recovered, if it doth not exceed twenty dollars, before any two juſtices of the peace of any county near the place where ſuch ſhip, boat, or other veſſel ſhall lie; and if it exceeds twenty dollars, in any court of record by action of debt, wherein the plaintiff ſhall recover his coſts. And if any ſervant, or other perſon employed in navigating any ſuch boat, or other veſſel, ſhall connive at or conceal the taking or receiving on board any tobacco in bulk or parcel, as aforeſaid, he ſhall pay the ſum of twenty dollars, to be recovered as aforeſaid; and if ſuch ſervant or other perſon, ſhall be unable to pay the ſaid ſum, he or they ſhall, by order of ſuch juſtice, receive on his bare back, thirty nine laſhes well laid on; and if ſuch boat or other veſſel be under the care and management of a ſervant who cannot pay and ſatisfy the penalty ſo to be inflicted on the maſter or ſkipper offending as aforeſaid, then ſuch ſervant, and every other perſon employed under him, unable to pay the ſaid penalty, who ſhall be guilty of conniving at, or concealing the taking on board tobacco in bulk or parcels, as aforeſaid, ſhall, upon every complaint, and proof thereof made to a juſtice of the peace, have and receive, by order of the ſaid juſtice, thirty-nine laſhes well laid on; and if any ſervant ſhall again be entruſted with the care and management of any boat or other veſſel, and ſhall be convicted a ſecond time of taking or receiving on board the ſame, any tobacco in bulk or parcel, contrary to the directions of this act, the owner of ſuch ſervant ſhall forfeit and pay the like ſum of fifty cents per pound for every pound weight of ſuch tobacco ſo taken or received on board in bulk or parcel, and ſhall alſo forfeit and pay two dollars for every day ſuch ſervant ſhall thereafter be employed as ſkipper or maſter of any boat or veſſel to him belonging; to be recovered and applied as aforeſaid. *Provided nevertheleſs*, that it ſhall be lawful for the proprietor or proprietors to break any hogſhead of tobacco after it ſhall be paſſed and ſtamped, and to repack and prize the ſame into ſmall caſks for the convenience of ſtowing, provided it be done at the warehouſe where the ſame was inſpected and weighed, marked, and ſtamped; and the inſpectors ſhall particularize all ſuch caſks in their manifeſts to be given to the maſters or ſkippers of the veſſel in which ſuch tobacco be laden. *Provided alu ays*, that nothing herein before contained, ſhall be conſtrued to prohibit any perſon from carrying, or cauſing to be carried to the ſaid warehouſes, in any boat or other veſſel, any tobacco in bulk or parcels, for the payment of his or her levies, debts

or other duties, or to prohibit any perſon to put or take on board any boat or other veſſel, any hogſheads or caſks of tobacco, to be water-borne to any warehouſe appointed by this act, ſo as the ſame be not carried out of the collectors or other officers of the cuſtoms diſtrict wherein the ſaid tobacco ſhall be made, nor to prohibit the owner of any tobacco to tranſport his crops, or any part thereof, in hogſheads or caſks, from one plantation to another, for the better handling and managing thereof, nor any purchaſer of tobacco from bringing the ſame by water, to be repacked, ſorted, ſtemmed, or prized, before the ſame be carried to the ſaid warehouſes, ſo as ſuch laſt mentioned tobacco be packed in hogſheads or caſks; but no tobacco on any pretence whatſoever, ſhall be carried or tranſported by water, to be inſpected out of the diſtrict limited and appointed for the ſeveral collectors or other officers of the cuſtoms of this ſtate, wherein the ſame ſhall be made, or being ſo carried, ſhall not be inſpected or paſſed by any inſpectors, knowing the ſame to be made out of ſuch diſtrict, upon pain of forfeiting by the owner of ſuch tobacco, and the inſpectors who ſhall paſs the ſame, ten dollars for every hogſhead, to the informer. *Provided nevertheleſs*, that it ſhall and may be lawful for the inhabitants of Fleet's bay, on the ſouth ſide of Indian creek, in the county of Lancaſter, to carry their tobacco by water to the public warehouſe at Indian creek, and the inhabitants at Warraſquake bay, and the parts adjacent, to carry their tobacco to be paſſed at any warehouſe in the upper diſtrict of James river.

XLVII. If the ſkipper of any boat or veſſel, or the perſon or perſons to whom the care and management thereof ſhall be entruſted, ſhall land or put on ſhore any hogſhead, caſk, or package of tobacco, put on board the ſame, to be carried to any public warehouſe at any other place or places, than the warehouſes by this act appointed for the reception and inſpection of tobacco, or at ſome or one of them, or the wharves or other landing to ſuch warehouſe or warehouſes belonging; or ſhall put the ſame on board any other veſſel, or ſuffer the ſame to be done, ſo as the ſame be not delivered at ſome of the ſaid public warehouſes, without fraud or embezzlement; or ſhall open any hogſhead or caſk of tobacco ſo as aforeſaid water-borne and landed, and take thereout any tobacco before the ſame be received by the inſpectors according to the directions of this act; or after the ſame has been viewed, ſhall fraudulently open any hogſhead or caſk, and take thereout any tobacco, every ſuch offence ſhall be judged felony, and the offender or offenders ſhall ſuffer as in the caſe of felony. *Provided always*, that nothing herein before contained, ſhall be conſtrued to prohibit the landing, or putting on ſhore, any hogſhead, caſk, or package of tobacco, out of any boat or other veſſel, which by diſtreſs of weather ſhall be forced aground, or become leaky, ſo as ſuch landing be really and bona fide for the preſervation of the tobacco laden in ſuch veſſel, and that the ſame may with all convenient ſpeed be thereafter carried to the warehouſe or ſhip (as the caſe may be) to which it was deſigned, without embezzlement. *Provided alſo*, that if by any of the accidents aforeſaid, or negligence of the maſter or ſkipper of any veſſel, any tobacco which hath been viewed and ſtamped, ſhall in its carriage to the ſhip in which it is intended to be exported, receive ſo much damage as that the maſter of ſuch ſhip or veſſel will not receive on board, every hogſhead or caſk of tobacco ſo damnified, ſhall with convenient ſpeed be carried to ſome warehouſe appointed by this act, and there lodged until the owner of the ſaid tobacco or maſter of the veſſel in which it was damaged, ſhall have ſeparated the ſame, and repacked the good tobacco; and then the ſame ſhall be weighed, and ſtamped with the weight by the inſpector attending ſuch warehouſe, without fee or reward; but if the owner of ſuch tobacco, or the maſter of the veſſel in which it was damaged, ſhall fail or delay to ſeparate and repack the ſame within ten days, then the inſpectors at the warehouſe where ſuch damaged tobacco ſhall be landed, ſhall, and they are hereby required to ſeparate, repack, weigh and ſtamp the ſame; and ſuch inſpectors ſhall receive of the owner two dollars for their trouble and nails.

XLVIII. And to the intent that the juſt quantity of tobacco exported may be more

exactly known, and evil practices to defraud the public of the duty prevented: All inſpectors ſhall carefully enter in a book, to be provided and kept for that purpoſe, the marks, numbers, groſs, nett weight, and tare of all tobacco viewed and ſtamped by them as aforeſaid, and in what ſhip or veſſel the ſame ſhall be laden or put on board; and ſhall alſo, with every ſloop or boat load of tobacco, ſend a liſt of the marks, numbers, groſs, nett weight, and tare of every hogſhead or caſk of tobacco then delivered, to be given to the maſter of the ſhip or veſſel in which the ſame ſhall be put on board; and if the tobacco delivered to the ſame ſloop or boat is intended to be put on board ſeveral ſhips or veſſels, then they ſhall deliver ſo many diſtinct and ſeveral liſts as aforeſaid, of the hogſheads or caſks, to be put on board ſuch ſhip or veſſel reſpectively. But whereas it may happen that the ſhip in which ſuch tobacco was intended to be put, may be ſo full as not to be able to ſtow all the tobacco contained in ſuch liſt, in ſuch caſe it ſhall be lawful to ſhip the ſaid tobacco, or any part thereof, on board any other ſhip or ſhips where the owner thereof ſhall think fit; the maſters of ſuch ſhips endorſing on the ſaid liſts the marks and numbers of the reſpective hogſheads by them taken on board, and giving notice to the inſpectors of the warehouſe from which the ſame was brought; or if there be no ſhip to receive the ſaid tobacco, then it ſhall be lawful for the maſter of the firſt mentioned ſhip or veſſel, to put the ſaid tobacco into any warehouſe in the diſtrict where ſuch ſhip or veſſel ſhall ride, giving immediate notice thereof to the inſpectors who ſtamped the ſame. And the inſpectors of that warehouſe where ſuch tobacco ſhall be delivered, ſhall receive from the perſons re-landing ſuch tobacco, twenty-five cents for every hogſhead ſo re-landed, and ſhall give a receipt for the ſame, which money ſo received by the inſpectors, ſhall be paid by them to the perſon or perſons entitled to receive the rent of the ſaid warehouſe.

XLIX. Every maſter of a ſhip or veſſel wherein tobacco ſhall be laden, ſhall at the time of clearing, deliver to the collector or other officer of the cuſtoms, a fair manifeſt of all the tobacco on board his ſhip or veſſel, expreſſing the marks and numbers of every hogſhead or caſk, and the tare and nett weight ſtamped thereon, the perſon by whom ſhipped, and from what warehouſe, and ſhall make oath thereto, and that the ſame is a juſt and true account of the marks, numbers, tare and nett weight of each reſpective hogſhead or caſk, as the ſame was taken down by the perſon or perſons appointed by him to take the ſame before the ſaid tobacco was ſtowed away; and no ſhip or veſſel ſhall be cleared by the collector, or other officer of the cuſtoms, before he ſhall have received ſuch liſt and manifeſt, which ſhall, by the ſaid collector, or other officer of the cuſtoms, be returned, upon oath, on or before the twenty-fifth day of October, annually, to the treaſurer of this commonwealth for the time being; and every collector failing herein, ſhall forfeit and pay the ſum of three hundred dollars for every ſuch failure.

L. All the penalties and forfeitures in this act contained, and not herein before particularly appropriated, ſhall be, one moiety to the commonwealth, to be applied towards defraying the charges of the execution of this act, and the other half to the perſon who ſhall inform and ſue for the ſame; and ſhall be recovered with coſts by action of debt or information in any court of record within this commonwealth, where the penalty exceeds five dollars, or two hundred pounds of tobacco, and where the ſame does not exceed thoſe ſums, before any juſtice of the peace of the county where the offence ſhall be committed.

LI. In caſe any warehouſes heretofore or hereafter eſtabliſhed ſhall not for the ſpace of three ſucceeding years receive a ſufficient quantity of tobacco to pay the inſpectors ſalaries and rents of the warehouſes, the inſpection of tobacco at ſuch warehouſes reſpectively, ſhall be thenceforth diſcontinued; unleſs the ſame ſhall be ſupported at private expence. *Provided*, That this clauſe ſhall not extend to the diſcontinuance at one time of two or more warehouſes, which may be in the ſame county, or county next adjacent; but in ſuch caſes that warehouſe ſhall be diſcontinued to which the ſmalleſt quantity of tobacco may be brought.

LII. The public printer ſhall furniſh one copy of this act to the inſpectors of each of the warehouſes herein mentioned.

LIII. The acting inſpectors of tobacco at the ſeveral warehouſes ſhall be, and they are hereby exempted from militia duty, except in caſe of actual invaſion or inſurrection.

LIV. All acts, or parts of acts, coming within the purview of this act, ſhall be, and are hereby repealed. *Provided always*, That nothing in this act ſhall be conſtrued to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been veſted, or incurred prior to the commencement of this act.

December the 15th, 1792—but commenced Oct. 1, 1793.

ALL and every perſon and perſons, that ſhall at any time after the commencement of this act, either in the night or day, take, ſteal and carry away, any hogſhead or caſk of tobacco, which ſhall be lying on or near any public highway, or any part of the tobacco contained in the ſame hogſhead or caſk, although the ſaid hogſhead or caſk may not be in the poſſeſſion of the owner thereof, ſhall be adjudged a felon, and be puniſhed as in other caſes of felony.

December the 6th, 1793—but commenced Oct. 1, 1794.

§ I. WHERE any inſpected tobacco ſhall be brought from an upper to a lower warehouſe for the purpoſe of ſtorage, and ſhall remain undemanded in the ſame for eighteen months from the time of its reception therein, the inſpectors at ſuch lower warehouſe ſhall advertiſe, ſell and account for the ſame in like manner, and under the like regulations as is preſcribed by the twenty-eighth ſection of the act, intituled, "An act for reducing into one, the ſeveral acts of aſſembly for the inſpection of tobacco."

II. Where any warehouſe eſtabliſhed by the former or preſent ſeſſion of aſſembly, or which ſhall be eſtabliſhed by any future ſeſſion of aſſembly, ſhall happen to be burnt, the loſs ſuſtained thereby ſhall be made good and repaid to the ſeveral perſons injured, by the general aſſembly; and no inſpector or inſpectors ſhall be held accountable for the ſame, in conſequence of any receipt by him or them given. *Provided always*, That if the receipt for tobacco ſo burnt and deſtroyed ſhall be of an older date than twelve months, and in caſe of inſpected tobacco brought to a lower warehouſe for ſtorage, ſhall be of an older date than ſix months, the tobacco ſhall not be paid for by the public, but the owner or proprietor thereof ſhall bear the loſs.

III. It ſhall and may be lawful for the inſpectors annually to preſent to the auditor of public accounts, a certificate from the courts of the counties wherein the warehouſes are reſpectively ſituated, aſcertaining the quantity of tobacco received into ſuch warehouſe or warehouſes, and alſo the quantity ſhipped in each year; and thereupon, if it ſhall appear to the auditor that provided all the tobacco ſo received within the ſpace of the year, had been ſhipped by the owners, that there would have been a ſufficient ſum received to have diſcharged their reſpective ſalaries as eſtabliſhed by law, then and in ſuch caſe it ſhall and may be lawful for the auditor to iſſue his warrant for the amount of their reſpective ſalaries, to be paid out of any money in the public treaſury, ariſing from the ſurplus on tobacco; any law to the contrary, notwithſtanding.

December the 7th, 1795.

§ I. WHEREAS it hath been repreſented that it would be of public utility to erect an additional warehouſe on the lands of John Lynch, in the county of Amherſt, in ſome convenient place contiguous to the preſent inſpection of Amherſt, and adjacent to James River:

II. Ambroſe Rucker, John Wyatt, Benjamin Rucker, David Woodroof, Thomas Moore, and Reuben Norvell, gentlemen, or any three of them, are appointed commiſ-

oners, to examine and aſcertain the moſt eligible ground on the lands of the ſaid John Lynch, whereon to erect an additional warehouſe, and make report thereof to the county court of Amherſt, who ſhall thereupon order and direct the dimenſions of the houſe to be built by the ſaid Lynch, at ſuch place accordingly; and moreover are hereby authoriſed to take ſuch meaſures therein for the purpoſe of effecting the ſaid building as are preſcribed by the fifth ſection of the act, intituled, "An act for reducing into one the ſeveral acts of Aſſembly, for the inſpection of tobacco:" So ſoon as the ſaid building ſhall be completed and received by the court of the ſaid county, the ſame ſhall be held, deemed and taken, to all intents and purpoſes whatſoever, as united with and under the ſame inſpection of Amherſt warehouſe.

December the 4th 1795—but commenced Jan. 1, 1796.

§ I. WHEREAS it hath been repreſented that the warehouſes for the reception and inſpection of tobacco, in the town of Alexandria, are no longer neceſſary, for that purpoſe:

II. The inſpection of tobacco at the ſaid place, ſhall be, and the ſame is hereby diſcontinued, and the lot and houſes ſhall be re-veſted in William Hepburn, and John Dundas, their heirs and aſſigns, in like manner as if the ſame had not been appropriated to public uſe: *Provided nevertheleſs*, That all the tobacco now remaining in the ſaid warehouſes, ſhall be from thence diſcharged according to law. Nothing in this act contained ſhall be conſtrued or taken to affect or impair the legal right or title of any perſon or perſons whatſoever to the ſaid lot of ground or warehouſes.

III. All and every act and acts, coming within the meaning of this act, is hereby repealed.

TOWNS, CORPORATIONS, AND CITIES.

December the 11th, 1778.

§ 1. UPON the death, removal out of the country, or other legal diſability of any one or more of the truſtees and directors of the ſeveral towns within this ſtate not incorporated, ſuch vacancy, ſo often as the ſame ſhall happen, ſhall hereafter be ſupplied in manner following, that is to ſay: The ſurviving truſtees and directors, or one of them, ſhall give immediate notice of ſuch vacancy to the ſheriff of the county wherein ſuch town may be, who within twenty days thereafter ſhall notify the ſame to the freeholders of the ſaid town, in ſuch manner as he may think beſt, requiring them to appear at a certain place therein, and on a certain day, not leſs than ten days thence next following, then and there to elect a truſtee in the room of the one ſo dying, removing, or diſabled. The ſheriff ſhall attend and take the poll at ſuch election, entering the names of the perſons voted for in a diſtinct column, and the name of every freeholder giving his vote under the name of the perſon he votes for; and when no freeholders appear to vote, the ſheriff ſhall cloſe the poll, and return the ſame to the next court to be held for his county, upon oath, certifying the name of the perſon elected, to be by the clerk recorded.

II. Every perſon elected in manner directed by this act, ſhall to all intents and purpoſes, be a truſtee of the town for which he was choſen.

III. So much of all acts of aſſembly as are contrary to the purview and meaning of this act, are hereby repealed.

December the 10th, 1793—but commenced Jan. 1, 1794.

§ 1. WHEREAS great inconveniences have ariſen in many, if not all the towns within this commonwealth, from the practice of hiring negroes and mulattoes, who pretend to freedom, but are in fact ſlaves: For remedy whereof,

II. From and after the paſſing of this act, every free negro or mulatto, who reſides in, or is employed to labour within the limits of any city, borough, or town, ſhall be regiſtered and numbered in a book to be kept for that purpoſe by the clerk of the ſaid city, borough, or town, which regiſter ſhall ſpecify his or her age, name, colour and ſtature, by whom, and in what court the ſaid negro or mulatto was emancipated; or that ſuch negro or mulatto was born free. A copy of the ſaid regiſter, ſigned by the clerk, and atteſted by one alderman or town magiſtrate, ſhall be annually delivered to the ſaid negro or mulatto, for which copy the clerk ſhall receive twenty-five cents, to be paid by the perſon recieving the ſame.

III. Any perſon harbouring or employing any negro or mulatto, who has not a certified copy of the ſaid regiſter, ſhall forfeit and pay for each offence five dollars to the owner of ſuch negro or mulatto, and if there be no owner, to the informer; to be recovered by warrant before any alderman or magiſtrate, and ſhall be moreover liable to an action for damages at the ſuit of the party grieved.

IV. In caſe any negro or mulatto, who reſides in or is employed to labour, in any city, borough, or town, ſhall neglect to procure ſuch certificate, it ſhall be lawful for any alderman, or magiſtrate, to commit to jail ſuch negro or mulatto, there to remain till ſuch copy is produced and the jailor's fees paid.

V. And for the prevention of free negroes and mulattoes goint at large in the ſeveral counties of this commonwealth: No free negro or mulatto ſhall be allowed to go at large, or hire himſelf or herſelf to labour in any county, without having his or her certificate regiſtered in the clerk's office of the county wherein he or ſhe reſides, and having a certified copy of the ſaid certificate. For regiſtering and granting ſuch certificate, the clerk ſhall be allowed twenty five cents.

VI. Any perſon employing or harbouring any negro or mulatto, coming within the purview of this act, ſhall forfeit and pay for each offence five dollars, to the uſe of the informer, to be recovered by a warrant before a juſtice of the peace, and ſhall be moreover liable to an action for damages at the ſuit of the party grieved.

VII. Every ſuch free negro or mulatto, ſhall once in every three years, obtain a new certificate, under the ſame rules and regulations, as are preſcribed for obtaining the firſt.

VIII. And in caſe any negro or mulatto, who reſides in or is employed to labour in any county, ſhall neglect to procure ſuch certificate, it ſhall be lawful for any magiſtrate in the ſaid county to commit to jail ſuch negro or mulatto, there to remain till ſuch certificate is produced and the jailor's fees paid.

TREASON. The law on this head is already printed under "Felonies, out of the juriſdiction of Virginia."

December the 2d, 1794.

THE governor, or in caſe of his abſence, inability, or death, the councillor who acts as preſident ſhall in no wiſe have or exerciſe a right of granting pardon to any perſon or perſons convicted of treaſon againſt the commonwealth. but may ſuſpend the execution until the meeting of the general aſſembly, who ſhall determine whether ſuch perſon or perſons are proper objects of mercy or not, and order accordingly.

TREASURER. See Auditor and Treaſurer.

TRESPASSES, INCLOSURES AND INFECTION OF HORNED CATTLE.

December the 26th, 1792—but commenced Oct. 1, 1793.

§ I. IF any horſes, mares, cattle, hogs, ſheep, or goats, ſhall break into any grounds being incloſed with a ſtrong and ſound fence, five feet high, and ſo cloſe that the beaſts breaking into the ſame, could not creep through, or with an hedge two feet high, upon a ditch three feet deep, and three feet broad, or inſtead of ſuch hedge, a rail fence of two feet and an half high, the hedge or fence being ſo cloſe that none of the creatures aforeſaid can creep through, which ſhall be accounted a lawful fence, the owner of ſuch horſes, mares, cattle, hogs, ſheep, or goats, or any one of them, ſhall for the firſt treſpaſs ſo committed, make reparation to the party injured, for the true value of the damage he ſhall ſuſtain, and for every treſpaſs afterwards, double damages; to be recovered with coſts, in any court of record; *Provided*, that for a third offence, for any one of the beaſts aforeſaid breaking into ſuch incloſures, it ſhall be at the election of the party injured, to ſue for his damages, or to kill and deſtroy the beaſts ſo treſpaſſing, without being anſwerable for the ſame. *(a)*

II. And that the condition of the fence at the time of the treſpaſs committed may be proved to a jury upon trial: Upon complaint made by the party injured, before any juſtice of the peace of that county wherein ſuch treſpaſs ſhall be, ſuch juſtice is hereby empowered and required to iſſue his order without delay, to three honeſt houſe-keepers of the neighbourhood, no ways related to the party injured, nor intereſted concerning the treſpaſs, reciting the complaint, and requiring them to view the fence where the treſpaſs is complained of, and to take memorandums of the ſame, and their teſtimony in ſuch caſe, ſhall be good evidence to the jury touching the lawfulneſs of the fence. *(b)*

III. If any perſon damnified for want of ſuch ſufficient fence, ſhall hurt, wound, lame, kill, or deſtroy, or cauſe to be hurt, wounded, lamed, killed, or deſtroyed, by ſhooting, hunting with dogs, or otherwiſe, any of the kind or breed of horſes, cattle, ſheep, hogs, or goats, he, ſhe, or they ſo offending, ſhall pay and ſatisfy to the owner of the creature ſo hurt, wounded, lamed, killed, or deſtroyed, double damages, with coſts; recoverable as aforeſaid. *(b)*

IV. All owners of horſes, mares, cattle, and other beaſts, which they know to have barked fruit trees, ſhall keep the ſame within their own fenced ground; and if any perſon ſhall take up any horſe, mare, kine, or other beaſt, known by the owner to have barked fruit trees, and ſhall deliver the ſame to ſuch owner, he or ſhe ſhall pay the taker up, two dollars for every ſuch beaſt ſo taken up and delivered; recoverable with coſts, before any juſtice of the peace of the county wherein ſuch beaſt was taken up, or the owner lives: *Provided always*, that the taker up, ſhall, if required, make oath before the ſame juſtice, that he took up ſuch horſe, mare, or other beaſt, and that no means were uſed by himſelf or any other perſon to his knowledge, to ſet the ſame at large, otherwiſe he ſhall loſe the ſaid reward. *(c)*

V. Every perſon who without leave of the owner ſhall take away any boat or other veſſel, ſhall, for every ſuch offence, pay ten dollars to the owner thereof, over and above the damage ſuch boat or veſſel ſhall ſuſtain, and over and above the charge of bringing back ſuch boat or other veſſel; to be recovered with coſts, in any court of record, as aforeſaid. And if the perſon ſo treſpaſſing ſhall be a ſervant, he or ſhe ſhall make the like ſatisfaction, by his or her ſervice, when the time due to his or her maſter, or owner, ſhall be expired. And where there ſhall be ſeveral offenders in one treſpaſs, every perſon ſhall be liable for the whole penalty. *(d)*

VI. The driving of cattle into, or through the commonwealth, or any part thereof,

(a) 1748 c 15. § 1 (b) 1748 c 15 § 4 (c) 1748 c 15 § 5 (d) 1748 c 15 § 6.

if it be not to remove them from one plantation to another of the ſame owner, or to be uſed at his houſe, ſhall be deemed a nuiſance, unleſs the driver ſhall produce to any freeholder of a county wherein the drove is paſſing, who ſhall require it, a bill of health, ſigned by ſome juſtice of the commonwealth, containing the number of the drove, with deſcriptions of the cattle, by their ſexes, fleſh marks, and ear marks or brands, and certifying them to be free from diſtemper; or notwithſtanding he may produce ſuch bill of health, unleſs he ſhall forthwith obtain another, at the like requiſition, if any freeholder ſhall make affidavit before a juſtice, that he hath cauſe to ſuſpect ſome of the cattle to be diſtempered. Such bill of health ſhall not be given in either caſe, before two diſintereſted freeholders appointed by warrant of a juſtice, ſhall have viewed the cattle, and reported them to be free from diſtemper. A freeholder refuſing to obey ſuch warrant, ſhall be amerced by the juſtice granting ſuch warrant, in any ſum not exceeding five dollars. If the cattle appear by the report to be diſtempered, the owner may impound them, and if he refuſe to do ſo, or if he ſuffer them to eſcape from the pound, before a juſtice ſhall have certified that they may be removed without annoying others, the ſame juſtice, or ſome other to whom information ſhall be given of the fact, ſhall, by his order cauſe them to be ſlaughtered, and the carcaſes with the hides on, but ſo cut or mangled, that none may be tempted to take them up and flay them, to be buried four feet deep. Thoſe who ſhall be employed in executing ſuch orders, ſhall receive eighty three cents for evey head ſo buried, to be paid by the county wherein it ſhall happen. And every perſon appointed by the order, who ſhall refuſe or neglect to execute it, ſhall be amerced in the ſum of eighty-three cents for every head ſo directed to be buried. Every perſon ſhall ſo reſtrain his diſtempered cattle, or ſuch as are under his care, as that they may not go at large off the land to which they belong, and when they die, ſhall bury them with their hides, in manner aforeſaid; and knowingly offending in either of thoſe inſtances, ſhall be amerced in the ſum of four dollars for every head they ſhall neglect ſo to bury. *(a)*

VII. From and after the paſſing of this act, every driver of nett cattle, ſhall, immediately after their coming into this commonwealth, go before the next juſtice of the county, and produce to him a true and perfect manifeſt, certified under the hand of a magiſtrate in the ſtate from whence they laſt came, wherein ſhall be diſtinguiſhed the ſexes, ages, marks and colours of all and every ſuch cattle, and alſo, at the ſame time, produce bills of ſale for them, and particularize the place of abode and name of the ſeller, and make oath that he knows of no more cattle in his drove, than what are mentioned in the manifeſt and bill of ſale, which oath the juſtice ſhall adminiſter, and certify on the manifeſt, and ſhall enter in a book, by him to be kept for that purpoſe, a copy of the ſaid manifeſt and certificate; and if any nett cattle ſhall be brought in this commonwealth in order to be driven into any neighbouring ſtate, the driver ſhall produce his bill of ſale to the next juſtice of the county where they ſhall be bought, and ſhall make oath that the ſaid bill is true, and that he knows of no more cattle in his drove, than what are mentioned in the ſaid bill and manifeſt, in caſe there be any, which the juſtice ſhall enter and certify in manner aforeſaid, and alſo ſhall add a deſcription of the cattle ſo bought, to the manifeſt, if any; and the like method ſhall be uſed by the drivers and juſtices in all the other counties of this commonwealth, through which they paſs, upon their arrival therein. And if any driver ſhall fail herein, he, ſhe, or they, ſhall forfeit and loſe his, her, or their whole drove of cattle: And any juſtice of the peace, upon complaint to him thereof made, is hereby empowered to iſſue his warrant to the ſheriff, or any conſtable of his county, forthwith to raiſe ſufficient force, and to ſeize the cattle, and cauſe the driver or drivers to come before him, or any other juſtice of the county, who is hereby empowered to hear the matter, and give a final judgment therein, and to order the cattle, if he ſhall judge them

(a) 1785 c 72 § 1.

forfeited, to be ſold by the ſheriff in the ſame manner as goods taken in execution; and the ſheriff ſhall be allowed the ſame fee for the ſervice, and ſhall alſo be allowed for keeping and providing for the ſaid cattle, until they are ſold, after the rate of three cents per head for every twenty-four hours, out of the money ariſing from the ſale. But in caſe any perſon other than the driver or drivers ſo convicted, or their employers, ſhall appear before the juſtice before whom the judgment was obtained, before the cattle are ſold, and ſhall make his, her, or their property in any of them appear, the ſheriff ſhall, by order of ſuch juſtice, reſtore the ſame to ſuch owner or owners, upon payment of the charge of their keeping; or if any owner or owners ſhall within three months after the ſale, make their property appear as aforeſaid, the ſheriff ſhall pay him, her, or them, by order of the juſtice, for their cattle, according to the ſale, after deducting a proportionable part of the charges: And at the expiration of the ſaid three months, the money ariſing from the ſale ſhall be appropriated, one moiety to the overſeers of the poor of the diſtrict where the driver ſhall be convicted, for the uſe of the diſtrict, and the other moiety to him, her, or them, who did inform or proſecute, and ſhall be paid them by the ſheriff accordingly; and the ſheriff ſhall return an account of the ſales to the clerk's office, to be lodged among the records of the county. *(a)*

VIII. *Provided always*, That nothing herein contained, ſhall be conſtrued to extend to any of the inhabitants of this commonwealth who ſhall buy any nett cattle and be driving them home, or to any perſons coming with their families and ſtocks to ſettle in this commonwealth. *(b)*

The repealing clauſe is, in ſubſtance, as in the appendix, No. 15.

TRIBUTARY INDIANS. *See Indians.*

TRUSTEES. *See Towns, Corporations, and Cities.*

TURPENTINE. *See Pork, Beef, Tar, Pitch and Turpentine.*

UNLAWFUL ASSEMBLIES.

December the 4th, 1786—but commenced July 1, 1787.

§ I. IF any riot, aſſembly, or rout of people, againſt the law, be made in any part of the commonwealth, the juſtices of peace, three, or two of them at the leaſt, and the ſheriff, or under-ſheriff of the county, or ſerjeant of a corporation, as the caſe may be, where ſuch riot, aſſembly, or rout ſhall be made, ſhall come with the power of the county, (if need be) to arreſt them, and ſhall arreſt them; and the ſame juſtices and ſheriff, under ſheriff, or ſerjeant, ſhall have power to record that which they ſhall find ſo done in their preſence againſt the law, by which record ſuch treſpaſſers and offenders ſhall be convict, and ſhall be taken and put in the jail of the ſame county or corporation, there to abide for ſo long time as ſhall be limited by a jury, to be ſworn by the judges, for that purpoſe, and further until they ſhall have paid ſuch amercement as the ſame jury ſhall aſſeſs. *(c)*

II. And if it happen that ſuch treſpaſſers and offenders be departed before the coming of the ſaid juſtices and ſheriff, under-ſheriff, or ſerjeant, the ſame juſtices, three, or two

(a) 1748 c 34 § 2. *(b)* 1784 c 34 § 3. *(c)* 13 Hen. IV. c 7—19 Hen. VII. c 13.

of them, ſhall diligently enquire within a month after ſuch riot, aſſembly, or rout of people ſo made, and thereof ſhall hear and determine according to law; and for this purpoſe the theriff, or ſerjeant, having a precept directed to him, ſhall return twenty-four fit perſons, twelve of whom having been ſworn, ſhall enquire of the ſaid riot, rout, or unlawful aſſembly, and award againſt thoſe whom they ſhall find guilty thereof, due pains, by amercement and impriſonment, as is before directed; and if ſo many of them ſhould not appear, thoſe who make default, ſhall be fined by the ſame juſtices, five pounds each; and if the default be in the ſheriff, under-ſheriff, or ſerjeant, he ſhall forfeit to the commonwealth twenty pounds.

III. And if the ſaid riot, rout, or unlawful aſſembly, be not found by the ſaid jury, by reaſon of any maintenance, embracery, partiality, or other miſbehaviour of the ſaid jurors, then the ſaid juſtices, and the ſheriff, under ſheriff, or ſerjeant, ſhall certify the whole matter and circumſtances to the general court, and alſo the names of the maintainers and embracers in that behalf, if any be, with their miſdemeanors that they know, in order that they may be duly proſecuted, upon pain of every of the ſaid juſtices and ſheriff, under-ſheriff, or ſerjeant, to forfeit twenty pounds, if they have no reaſonable excuſe for not certifying the ſame, which certificate ſhall be of like force as the preſentment of a grand jury; and thereupon the ſaid treſpaſſers and offenders being put to anſwer, they which ſhall be found guilty, ſhall be puniſhed by impriſonment and amercement, according to the diſcretion of a jury, as is before directed; and if the ſame treſpaſſers do not appear before the general court at the firſt precept, then ſhall another precept be directed to the ſheriff of the county, to take the ſaid treſpaſſers and offenders, if they may be found, and to bring them at a certain day before the general court; and if they cannot be found, the ſheriff, under-ſheriff, or ſerjeant, ſhall make proclamation in his full county, or corporation, next enſuing the delivery of the ſecond precept, that they ſhall appear before the general court on a day named; and in caſe the ſame offenders come not as afore is ſaid, and the proclamation made and returned, they ſhall be convict and attainted of the riot, aſſembly, or rout aforeſaid.

IV. And moreover the juſtices of peace in every county or corporation, where ſuch riot, aſſembly, or rout of people ſhall be made, in caſe the ſame be made in their preſence, or if none be preſent, then the juſtices having notice thereof, together with the ſheriff, under-ſheriff, or ſerjeant, of the ſame county or corporation, ſhall do execution of this act, every one upon pain of twenty pounds, to be paid to the commonwealth, as often as they ſhall be found in default of the execution of the ſaid act.

V. And on ſuch default of the juſtices and ſheriff, under ſheriff, or ſerjeant, a commiſſion ſhall go from the general court at the inſtance of the party grieved, to enquire as well of the truth of the caſe, and of the original matter for the party complainant, as of the default or defaults of the ſaid juſtices, ſheriff, under-ſheriff, or ſerjeant, in this behalf ſuppoſed, to be directed to ſufficient and indifferent perſons at the nomination of the judges; and the ſaid commiſſioners preſently ſhall return into the general court the inqueſts and matters before them in this behalf taken and found.

VI. But no perſons convicted of a riot, rout, and unlawful aſſembly, ſhall be impriſoned for ſuch offence by a longer ſpace of time than one year. Perſons legally convicted of a riot, rout, or unlawful aſſembly, otherwiſe than in the manner directed by this act, ſhall be puniſhed by impriſonment and amercement, at the diſcretion of a jury, under the like limitation.

UNLAWFUL HUNTING AND RANGING. *See Hunting and Ranging.*

December the 23d, 1792—but commenced Oct. 1, 1793.

§ I. WHOSOEVER ſhall hereafter uſe any fire hunting, or the killing of any deer by ſuch means, on any patented lands, every perſon preſent at ſuch fire hunting, ſhall forfeit and pay four dollars for every ſuch offence; which penalties ſhall and may be recovered before any juſtice of the peace in the county where any of the offences aforeſaid ſhall be committed, and ſhall be divided, one half to the uſe of the overſeers of the poor of the diſtrict wherein the offence was committed, and the other half to the perſon or perſons who will inform for the ſame. And every juſtice of the peace before whom information ſhall be made of any of the offences aforeſaid, ſhall take for evidence the confeſſion of the party accuſed, or the oath of one credible witneſs; and where the owner of any lands ſhall proſecute for any unlawful hunting and ranging on his lands, the oath of ſuch owner ſhall be ſufficient evidence to convict the offender; but in that caſe the whole penalty ſhall go to the overſeers of the poor. *(a)*

II. If any perſon ſhall ſhoot, or otherwiſe kill any tame deer having a bell or collar on its neck, every perſon ſo offending, ſhall be liable to an action of treſpaſs to the perſon whoſe property the ſame ſhall be, to be proſecuted in the court of the county where the offence ſhall be committed. *(b)*

The repealing clauſe is the ſame in ſubſtance, as in the appendix, No. 20.

UNLAWFUL MARRIAGES. *See Marriages.*

UNWHOLESOME MEAT AND DRINK.

November the 27th, 1786—but commenced July 1, 1787.

A BUTCHER or other perſon that ſelleth the fleſh of any animal dying otherwiſe than by ſlaughter, or ſlaughtered when diſeaſed, or a baker, brewer, or diſtiller, or other perſon, who ſelleth unwholſome bread or drink, ſhall, on conviction by the verdict of a jury, the firſt time be amerced; the ſecond time he ſhall ſuffer judgment of the pillory; and the third time he ſhall be impriſoned and make fine; and every time after he ſhall be adjudged to hard labour ſix months in the public works. [From a Britiſh ſtatute of uncertain time.

USURY.

December the 8th, 1786—but commenced July 1, 1787.

§ I. NO perſon ſhall hereafter, upon any contract, take directly or indirectly, for loan of any money, wares, or merchandiſe, or other commodity, above the value of five pounds, for the forbearance of one hundred pounds for a year, and after that rate for a greater or leſſer ſum, or for a longer or ſhorter time; and all bonds, contracts, covenants, conveyances, or aſſurances hereafter to be made, for payment or delivery of any money, or goods, ſo to be lent, on which a higher intereſt is reſerved or taken, than is hereby allowed, ſhall be utterly void. *(c)*

(a) 1738 c 1 § 8. *(b)* 1738 c 1 § 5. *(c)* 1748 c 30.

II. If any perſon ſhall, by any way or means of any corrupt bargain, loan, exchange, ſhift, covin, device, or deceit, take accept, or receive, for the loan of, or giving day of payment for money, wares, merchandiſe, or other commodity, above the rate of five pounds for one hundred pounds for one year, every perſon ſo offending, ſhall forfeit double the value of the money, wares, merchandiſe, or commodity ſo lent, exchanged, or ſhifted; one moiety to the uſe of the commonwealth, and the other to the informer, to be recovered with coſts.

III. Any borrower of money, or goods, may exhibit a bill in chancery againſt the lender, and compel him to diſcover upon oath, the money or thing really lent, and all bargains, contracts, or ſhifts which ſhall have paſſed between them, relative to ſuch loan, or the re-payment thereof, and the intereſt or conſideration for the ſame; and if thereupon, it ſhall appear, that more than lawful intereſt was reſerved, the lender ſhall be obliged to accept his principal money, without any intereſt, or other conſideration, and pay coſts, but ſhall be diſcharged of all other penalties of this act.

IV. Every broker, ſolicitor, or driver of bargains, who ſhall hereafter directly or indirectly, take, or receive more than the rate or value of five ſhillings, for brokerage, or ſoliciting the loan or forbearance of one hundred pounds for a year, or above one ſhilling for making or renewing the bond or bill, for ſuch loan or forbearance, or for any counter-bond or bill, concerning the ſame, ſhall forfeit for every offence, twenty pounds to the commonwealth and informer, to be recovered and divided, as herein before is mentioned.

VAGRANTS. *See Poor.*

VENIRE-MEN. *See Juries and Venire-Men.*

VEXATIOUS AND MALICIOUS PROSECUTIONS. *See Criminals, Crimes, Offences, and Proſecutions.*

WARRANTY. *See Alienations of Lands.*

WASTE.

December the 26th, 1792—but commenced Oct. 1, 1793.

§ I. IF any tenant by the curteſy, tenant in dower, or otherwiſe for term of life or years, ſhall commit waſte during their ſeveral eſtates or terms, of the houſes, woods, or any other thing belonging to the tenants ſo held without ſpecial licenſe in writing ſo to do, they ſhall be ſubject reſpectively to an action of waſte, and ſhall moreover loſe the thing waſted, and recompence the party injured in three times the amount at which the waſte ſhall be aſſeſſed. *(a)*

II. In caſe any of the ſaid tenants ſhall aliene their eſtate, and notwithſtanding retain poſſeſſion of the ſame and commit waſte, he in the reverſion ſhall be entitled to his action of waſte, and likewiſe recover againſt them the place waſted, and treble damages. *(a)*

III. If one tenant in common ſhall commit waſte of the eſtate held in common, he

(a) 6 Edw. I. c 5.

ſhall be ſubject to an action of waſte at the ſuit of the other tenant or tenants in common. *(a)*

IV. An action of waſte ſhall be maintainable by the heir, whether within or of full age, for waſte done in the time of his anceſtor, as well as in his own time. *(b)*

V. If tenant for life commit waſte, and he in the reverſion brings his action of waſte and dieth before judgment, his heir may bring an action of waſte for the ſame. *(b)*

VI. If a guardian ſhall commit waſte of the eſtate of his ward, ſuch ward when he attains his full age ſhall have his action to recompenſe him for the injury.

VII. The proceſs in an action of waſte, ſhall be ſummons, attachment, and diſtreſs, and if the defendant appear not upon the diſtreſs, the waſte ſhall nevertheleſs be enquired of by a verdict of a jury, and the court proceed to judgment according to the directions of this act.

VIII. After the commencement of any ſuit in any court of this commonwealth, the tenant ſhall have no power to commit waſte or eſtrepement of the land in demand, whilſt ſuch ſuit is depending; and if he do the ſheriff ſhall be commanded to keep the ſame at the ſuit of the plaintiff. *(c)*

WATER-COURSES. *See Mills, Mill-Dams, and Water-Courſes.*

WEIGHTS AND MEASURES.

December the 26th, 1792—but commenced Oct. 1, 1793.

§ I. WHEREAS the general aſſembly of Virginia, at their ſeſſion in the year one thouſand ſeven hundred and thirty-four, did paſs an act, intituled, "An act for more effectually obliging perſons to buy and ſell by weights and meaſures, according to the Engliſh ſtandard. *(d)*

II. The ſaid act ſhall continue and remain in force, until the congreſs of the United States ſhall have made proviſion on that ſubject.

III. *Provided always*, That all fines, forfeitures and penalties in the ſaid act mentioned, ſhall be and enure, one moiety to the commonwealth, and the other to the uſe of the informer.

WILLS, EXECUTORS, ADMINISTRATORS, AND INTESTATES.

December the 13th, 1792—but commenced Oct. 1, 1793.

§ I. EVERY perſon aged twenty-one years or upwards, being of ſound mind, and not a married woman, ſhall have power at his will and pleaſure, by laſt will and teſtament in writing, to deviſe all the eſtate, right, title, and intereſt in poſſeſſion, reverſion or remainder, which he hath, or at the time of his death ſhall have, of, in, or to lands, tenements or hereditaments, or annuities or rents charged upon, or iſſuing out of them, ſo as ſuch laſt will and teſtament be ſigned by the teſtator, or by ſome other perſon in his preſence, and by his direction; and moreover, if not wholly written by himſelf, be atteſted by two or more credible witneſſes, ſubſcribing their names in his preſence. *(e)*

II. Saving to the widows of teſtators their dower in ſuch lands, tenements, rents, or annuities, according to the laws, which ſhall not be prejudiced by any deviſe thereof. *(f)*

III. No deviſe ſo made, or any clauſe thereof, ſhall be recoverable but by the teſtator's

(a) 13 Edw. I. c 22. *(b)* 20 Edw. I. St. 2. *(c)* 6 Edw. I. c 13. *(d)* 1734 c 1. *(e)* 1785 c 61 § 1. *(f)* 1785 c 61 § 2.

deſtroying, cancelling, or obliterating the ſame, or cauſe it to be done in his preſence, or by a ſubſequent will, codicil, or declaration in writing made as aforeſaid. But every laſt will and teſtament, made when the teſtator had no child living, wherein any child he might have is not provided for, or mentioned, if at the time of his death he leave a child, or leave his wife inſeint of a child, which ſhall be born, ſhall have no effect during the life of ſuch after born child, and ſhall be void, unleſs the child die without having been married, or before he or ſhe ſhall have attained the age of twenty-one years. When a teſtator ſhall leave children born, and his wife inſeint, the poſthumous child or children, if it be unprovided for by ſettlement, and be neither provided for nor diſinherited, but only pretermitted by the laſt will and teſtament, ſhall ſucceed to the ſame portion of the father's eſtate, as ſuch child would have been entitled to, if the father had died inteſtate; towards raiſing which portion, the deviſees and legatees ſhall contribute proportionably, out of the parts deviſed and bequeathed to them by the ſame will and teſtament. *(a)*

IV. No perſon under the age of eighteen years, ſhall be capable of diſpoſing of his chattels by will. *(b)*

V. No nuncupative will ſhall be eſtabliſhed, unleſs it be made in the time of the laſt ſickneſs of the deceaſed at his habitation, or where he hath reſided for ten days next preceding, except where the deceaſed is taken ſick from home, and dies before he returns to ſuch habitation; nor where the value exceeds thirty dollars, unleſs it be proved by two witneſſes, that the teſtator called on ſome perſon preſent to take notice or bear teſtimony that ſuch is his will, or words of the like import. *(c)*

VI. After ſix months have elapſed from the time of ſpeaking the pretended teſtamentary words, no teſtimony ſhall be received to prove a nuncupative will, unleſs the teſtimony, or the ſubſtance thereof, ſhall have been committed to writing within ſix days after making the will. *(d)*

VII. No will in writing, or any deviſe therein of chattels, ſhall be revoked by a ſubſequent will, codicil, or declaration, unleſs the ſame be in writing. *(e)*

VIII. Any ſoldier in actual military ſervice, or any mariner or ſeamen being at ſea, may diſpoſe of his chattels as he might heretofore have done. *(f)*

IX. If any perſon hall ſubſcribe his name as a witneſs to a will wherein any bequeſt is given to him, if the will may be not otherwiſe proved, the bequeſt ſhall be void, and ſuch witneſs ſhall be allowed and compellable to appear, and give teſtimony on the reſidue of the will, in like manner as if no ſuch bequeſt had been made. But if ſuch witneſs would be entitled to any ſhare of the teſtator's eſtate in caſe the will were not eſtabliſhed, ſo much of his ſaid ſhares ſhall be ſaved to him, as ſhall not exceed the value of the legacy beqeuathed him. *(g)*

X. The ſeveral diſtrict, county, or corporation courts, ſhall have power to hear and determine all cauſes, matters, ſuits and controverſies teſtamentary, ariſing within their reſpective juriſdictions, and to examine and take the proof of wills, and grant certificates thereof, according to the methods and rules following; that is to ſay: If any teſtator ſhall have a manſion-houſe, or known place of reſidence, his will ſhall be proved in the court of the diſtrict, county, or corporation, wherein ſuch manſion houſe, or place of reſidence is; if he have no ſuch place of reſidence, and lands be deviſed in the will, it ſhall be proved in the court of the diſtrict, county, or corporation, wherein the lands lie, or in one of them where there ſhall be lands in the ſeveral diſtricts or counties; and if he hath no ſuch known place of reſidence, and there be no lands deviſed, then the will may be proved, either in the court of the diſtrict, county, or corporation where the teſtator ſhall die, or that wherein his eſtate, or the greater part thereof, ſhall be; or ſuch will may in any caſe, be proved in the general court. *(h)*

(a) 1785 c 61 § 3. *(b)* 1785 c 61 § 4. *(c)* 1785 c 61 § 5. *(d)* 1785 c 61 § 6. *(e)* 1785 c 61 § 7. *(f)* 1785 c 61 § 8. *(g)* 1785 c 61 § 9. *(h)* 1785 c 61 § 10.

XI. When any will ſhall be exhibited to be proved, the court having juriſdiction as aforeſaid, may proceed immediately to receive the probat thereof, and grant a certificate of ſuch probat: If however, any perſon intereſted, ſhall within ſeven years afterwards appear, and by his bill in chancery conteſt the validity of the will, an iſſue ſhall be made up, whether the writing produced be the will of the teſtator or not, which ſhall be tried by a jury, whoſe verdict ſhall be final between the parties; ſaving to the court a power of granting a new trial for good cauſe, as in other trials; but no ſuch party appearing within that time, the probat ſhall be forever binding: Saving alſo to infants, femes covert, and perſons abſent from the ſtate, or non compos mentis, the like period after the removal of their reſpective diſabilities. *(a)*

XII. In all ſuch trials by jury, the certificate of the oath of the witneſſes at the time of the firſt probat, ſhall be admitted as evidence, to have ſuch weight as the jury ſhall think it deſerves. *(b)*

XIII. It ſhall be lawful for any court when any will ſhall be produced to them for probat, and any witneſs atteſting the ſame ſhall reſide out of the commonwealth, to iſſue a commiſſion or commiſſions annexed to ſuch will, and directed to the preſiding judge of any court of law, or to any notary public, mayor, or other chief magiſtrate of any city, town, corporation, or county, where ſuch witneſs may be found, authoriſing the taking and certifying his atteſtation. If the perſon to whom any ſuch commiſſion ſhall be directed, ſhall certify in the manner ſuch acts are uſually authenticated by him, that the witneſs perſonally appeared before him and made oath, or ſolemn affirmation, (as the caſe may require) that the teſtator ſigned and publiſhed the writing annexed to ſuch commiſſion as his laſt will and teſtament, or that ſome other perſon ſigned it by his direction, that he was of diſpoſing mind and memory, and that he ſubſcribed his name thereto in the preſence of the teſtator, and at his requeſt, ſuch oath or affirmation ſhall have the ſame operation, and the will be recorded in like manner, as if ſuch oath or affirmation had been made in the court from whence ſuch commiſſion iſſued. *(c)*

XIV. Authenticated copies of wills proved according to the laws of any of the United States, or of countries without the limits of the ſame, and relative to any eſtate within this commonwealth, may be offered for probat in the general court; or where the eſtate ſo deviſed ſhall lie altogether in any one county or diſtrict, the court of ſuch county or diſtrict reſpectively may admit to record any ſuch authenticated copies, but the bond and oath of the executor or admininiſtrator, with the will annexed, ſhall be changed from the bond and oath required by law in other caſes, in ſuch manner as to the ſaid court ſhall ſeem neceſſary, and the proof to be made by the witneſſes ſhall be conformed to the nature of the caſe. But ſuch will ſhall be liable to be conteſted and controverted in the ſame manner as the original might have been.

XV. All perſons named as executors in any ſuch will, ſhall, after the copy thereof has been admitted to record as above directed, be entitled to a probat of the ſaid will, in the ſame manner as if the original will had been proved in ſuch court. And where there ſhall be no executors named in the ſaid will, or the executors therein named, ſhall all of them refuſe the executorſhip, the court ſhall have the ſame power and authority to hear and demine the right of adminiſtration, and to grant a certificate for obtaining letters of adminiſtration, with the will annexed, as if the original will had been proved in court. *(d)*

XVI. No nuncupative will ſhall be proved within fourteen days after the death of the teſtator, nor until his widow (if any) and next of kin, have been ſummoned to conteſt the ſame, if they pleaſe. *(e)*

XVII. If the general court, or any diſtrict, county, or corporation court, having juriſdiction as aforeſaid, ſhall be informed that any perſon hath the will of a teſtator in his

(a) 1785 § 11—22 Geo. II. c 3 § 4. *(b)* 1785 c 61 § 12. *(c)* 1787 c 21 § 2. *(d)* 1787 c 21 § 7. *(e)* 1785 c 61 § 13.

cuſtody, ſuch court may ſummon ſuch perſon, and by a proper proceſs, compel him to produce the ſame.

XVIII. If the executors named in any will ſhall all refuſe the executorſhip, or being required to give ſecurity as herein after mentioned, ſhall refuſe or fail to give the ſame, which ſhall amount to a refuſal of the executorſhip, in either caſe, the court having juriſdiction as aforeſaid, may receive the proof of the will, and grant a certificate for obtaining letters of adminiſtration with the ſame annexed, to the perſon to whom adminiſtration would have been granted, if there had been no will of the deceaſed. (*a*)

XIX. Before granting a certificate of the probat of any will, the executor or adminiſtrator, with the will annexed, (as the caſe may be) ſhall in open court take the following oath, to wit:

"You ſhall ſwear that this writing contains the true laſt will of the within named
" , as far as you know or believe; and that you will well and truly perform the
" ſame by paying firſt his debts, and then the legacies contained in the ſaid will, as far as
" his goods, chattels and credits will extend, and the law charge you; and that you will
" make a true and perfect inventory of all the ſaid goods, chattels and credits, as alſo a
" juſt account when thereto required."

And ſhall alſo give bond, in ſuch penalty, as will be equal to the full value of the eſtate at the leaſt, and with ſuch ſecurity as ſhall be approved of by the court, with the following condition, to wit:

"The condition of this obligation is, that if the ſaid , executor of the laſt
" will and teſtament, (or adminiſtrator with the will annexed, of all the goods, chattels
" and credits) of , deceaſed, do make a true and perfect inventory of all and
" ſingular, the goods, chattels and credits of the ſaid deceaſed, which have, or ſhall come
" to the hands, poſſeſſion, or knowledge of , the ſaid , or into the
" hands or poſſeſſion of any other perſon or perſons for , and the ſame ſo made,
" do exhibit into the court of , at ſuch time as ſhall be
" thereto required by the ſaid court, and the ſame goods, chattels, and credits, do well and
" truly adminiſter according to law, and make a juſt and true account of act-
" ings and doings therein, when thereunto required by the ſaid court; and further, do
" well and truly pay and deliver all the legacies contained and ſpecified in the ſaid will,
" as far as the ſaid goods, chattels, and credits will extend, according to the value thereof,
" and as the law ſhall charge , then this obligation to be void, or elſe to remain
" in full force. (*b*)

XX. Which bond ſhall be payable to the judges or juſtices ſitting in court, and their ſucceſſors, and ſhall not become void upon the firſt recovery, but may be put in ſuit and proſecuted from time to time, by and at the coſts of any party injured by a breach thereof, until the whole penalty be recovered thereupon. (*c*)

XXI. But where any teſtator ſhall leave viſible eſtate, more than ſufficient to pay all his debts, and by will ſhall direct that his executors ſhall not be obliged to give ſecurity, in that caſe no ſecurity ſhall be required, unleſs the court ſhall ſee cauſe from their own knowledge, or the ſuggeſtions of creditors or legatees, to ſuſpect the executors of fraud, or that the teſtator's perſonal eſtate will not be ſufficient to diſcharge all his debts, and ſhall require ſecurity, when the ſame ſhall be given, before a certificate ſhall be granted, notwithſtanding any directions to the contrary in the teſtator's will. (*d*)

(*a*) 1785 c 61 § 15. (*b*) 1785 c 61 § 16. (*c*) 1785 c 61 § 17. (*d*) 1785 c 61 § 18.

XXII. The power of executors over their teſtator's eſtates before probat of the will, is not hereby reſtrained, but ſhall continue as heretofore. *(a)*

XXIII. During any conteſt about a will, or during the infancy, or in the abſence of an executor, or until a will which may have once exiſted, but is deſtroyed, ſhall be eſtabliſhed, or whenever the court from any other cauſe ſhall judge it convenient, they may appoint any perſon or perſons to collect and preſerve the eſtate of any decedent, until a probat of his will, or durante minore ætate, or until adminiſtration of his eſtate be granted, taking bond and ſecurity for collecting the eſtate, making an inventory thereof, and ſafe keeping and delivering up the ſame when required, to the executors or adminiſtrators. *(b)*

XXIV. The bond and oath of the adminiſtrator or appointee in ſuch caſes ſhall be changed from the bond and oath of an adminiſtrator in ordinary caſes, in ſuch manner as to the ſaid courts, or any of them ſhall ſeem neceſſary.

XXV. When any widow ſhall not be ſatisfied with the proviſion made for her by the will of her huſband, ſhe may within one year from the time of his death, before the general court, or court having juriſdiction of the probat of his will as aforeſaid, or by deed executed in the preſence of two or more credible witneſſes, declare that ſhe will not take or accept the proviſion made for her by ſuch will, or any part thereof, and renounce all benefit which ſhe might claim by the ſame will; and thereupon ſuch widow ſhall be entitled to one third part of the ſlaves whereof her huſband died poſſeſſed, which ſhe ſhall hold during her life, and at her death they and their increaſe, ſhall go to ſuch perſon or perſons, to whom they would have paſſed and gone, if ſuch declaration had not been made; and ſhe ſhall moreover be entitled to ſuch ſhare of his other perſonal eſtate, as if he had died inteſtate, to hold to her as her abſolute property; but every widow not making a declaration within the time aforeſaid, ſhall have no more of her huſband's ſlaves and perſonal eſtate, than is given her by his will. *(c)*

XXVI. All original wills ſhall be recorded, and ſhall alſo remain in the clerk's office of the court wherein they are reſpectively proved, except during ſuch time as they may be in any ſuperior court, having been removed thither for inſpection by certiorari, or otherwiſe, after which they ſhall be returned to the ſaid office. *(d)*

XXVII. When any perſon ſhall die inteſtate as to his goods and chattels, or any part thereof, after funeral debts and juſt expences paid, if there be no child, one moiety, or, if there be a child or children, one third of the ſurplus ſhall go to the wife, but ſhe ſhall have no more than the uſe for her life of ſuch ſlaves as ſhall be in her ſhare, and the reſidue of the ſurplus, and after the wife's death, the ſlaves in her ſhare, or, if there be no wife, then the whole of ſuch ſurplus ſhall be diſtributed in the ſame proportions, and to the ſame perſons, as lands are directed to deſcend in and by an act of the general aſſembly, intituled, "An act to reduce into one, the ſeveral acts directing the courſe of deſcents." Nothing in this act contained, ſhall be underſtood ſo as to compel the huſband to make diſtribution of the perſonal eſtate of his wife dying inteſtate. Where any children of the inteſtate, or their iſſue, ſhall have received from the inteſtate in his lifetime, any perſonal eſtate by way of advancement, and ſhall chooſe to come into the diſtribution with the other perſons entitled, ſuch advancement ſhall be brought into hotchpot with the diſtributable ſurplus. *(e)*

XXVIII. The general court, and the ſeveral courts reſpectively, ſhall have the like juriſdiction to hear and determine the right of adminiſtration of the eſtates of perſons dying inteſtate, as is herein before mentioned, as to the proof of wills, in reſpect to the inteſtate's place of reſidence, or death, or where the eſtate ſhall lie, and ſhall grant certificates for obtaining ſuch adminiſtration, to the repreſentatives who apply for the ſame; preferring

(*a*) 1785 c 61 § 19. (*b*) 1785 c 61 § 20. (*c*) 1785 c 61 § 21. (*d*) 1785 c 61 § 24. (*e*) 1785 c 61 § 25.

firſt the huſband or wife, and then ſuch others as are next entitled to diſtribution, or one, or more of them, as the court ſhall judge will beſt manage and improve the eſtate (*a*)

XXIX. If no ſuch perſon applies for adminiſtration within thirty days from the death of an inteſtate, or at the next ſucceeding court after the expiration thereof, the court may grant adminiſtration to any creditor or creditors who apply for the ſame, or to any other perſon the court ſhall, in their diſcretion, think fit. (*b*)

XXX. But if any will ſhall afterwards be produced, and proved by executors, or the wife, or other diſtributee, who ſhall not have before refuſed, ſhall apply for the adminiſtration, the ſame ſhall be granted, in like manner as if the former had not been obtained.

XXXI. Before granting a certificate for the adminiſtration of any eſtate, the perſon or perſons to whom the ſame is granted, ſhall, in open court, take the following oath, to wit:

"You ſhall ſwear that , deceaſed, died without any will, as far as you "know or believe, and that you will well and truly adminiſter all and ſingular the goods, "chattels, and credits of the ſaid deceaſed, and pay his debts, as far as his goods, chattels, "and credits will extend, and the law require you; and that you make a true and perfect "inventory of all the ſaid goods, chattels, and credits, as alſo a juſt account when thereto "required. So help you God." (*c*)

XXXII. And ſhall alſo give bond, in a penalty at leaſt equal to the value of the eſtate, and with ſuch ſecurity as ſhall be approved by the court, with the following condition, to wit:

"The condition of this obligation is, that if the ſaid , admi- "niſtrator of the goods, chattels, and credits of , deceaſed, do "make a true and perfect inventory of all and ſingular the goods. chattels, and credits, of "the ſaid deceaſed, which have, or ſhall come to the hands, poſſeſſion, or knowledge of " , the ſaid , or in the hands or poſ- "ſeſſion of any other perſon or perſons, for , and the ſame ſo "made, do exhibit into the court, " , when he ſhall be thereto required by the ſaid court; "and ſuch goods, chattels and credits, do well and truly adminiſter, according to law; "and further do make a juſt and true account of his actings and doings therein, when "thereto required by the ſaid court; and all the reſt of the ſaid goods, chattels and credits, "which ſhall be found remaining upon the account of the ſaid adminiſtrator, the ſame be- "ing firſt examined and allowed by the juſtices of the ſaid court for the time being, ſhall "deliver and pay unto ſuch perſons, reſpectively, as are entitled to the ſame by law; and "if it ſhall hereafter appear, that any laſt will and teſtament was made by the deceaſed, "and the ſame be proved in court, and the executor obtain a certificate of the probat there- "of, and the ſaid do in ſuch caſe, being required, render and deliver up "his letters of adminiſtration, then this obligation to be void, elſe to remain in full "force." (*d*)

Which bond ſhall be payable to the ſitting juſtices, and their ſucceſſors, and may be put in ſuit and proſecuted in like manner as is before directed in the caſe of bonds to be given by executors or adminiſtrators, with the will annexed.

XXXIII. But no ſecurity for any executor or adminiſtrator, ſhall be chargeable be-

(*a*) 1785 c 61 § 26. (*b*) 1785 c 61 § 27. (*c*) 1785 c 61 § 28. (*d*) 1785 c 61 § 29.

yond the aſſets of the teſtator or inteſtate, by reaſon of any omiſſion or miſtake in pleading, or falſe pleading of ſuch executors or adminiſtrator. (*a*)

XXXIV. If any court ſhall grant a certificate for obtaining adminiſtration of the eſtate of any perſon deceaſed, without taking good ſecurity for the ſame, as aforeſaid, to be judged of according to the apparent circumſtances of the ſecurity, when taken, and not from ſubſequent accidents or diſcoveries thereof, the juſtices of ſuch court then ſitting, ſhall be anſwerable to the perſon or perſons injured, for all loſs or damage occaſioned by the not requiring any, or, by the taking inſufficient ſecurity, recoverable with coſts, by action on the caſe, in any court of record. (*b*)

XXXV. When ſecurities for executors or adminiſtrators conceive themſelves in danger of ſuffering thereby, and petition the court for relief, the court ſhall ſummon the executor or adminiſtrator, and make ſuch order or decree thereupon, to relieve and ſecure the petitioners, by counter-ſecurity, or otherwiſe, as to them ſhall ſeem juſt and equitable. (*c*)

XXXVI. All certificates of probat or adminiſtration, atteſted by the clerk, ſhall enable the executor or adminiſtrator to act, and may be produced, or given in evidence in any court within this commonwealth, and be as effectual as any probat or letters of adminiſtration made out in due form: Nevertheleſs, the clerks of the courts ſhall, when required by an executor or adminiſtrator, make out ſuch probat or letters in due form, in the name of the firſt juſtice of the court; which probat or letters ſhall be ſigned by ſuch juſtice, and ſealed with the diſtrict, county, or corporation ſeal, if the will be proved in a diſtrict, county, or corporation court, or with the ſeal of the commonwealth, if proved in the general court. (*d*)

XXXVII. The clerk of every diſtrict, county, or corporation court,, ſhall annually, on or before the firſt day of October, return to the clerk of the general court, a liſt of all certificates granted in his court for probats and adminiſtrations within the preceding year, in this form [date of certificate] [name of teſtator or inteſtate] [names of ſecurities] [penalty of bond.] Which liſts together with ſuch certificates as are granted in the general court, ſhall be entered by the clerk of the general court, alphabetically, in books to be kept for that purpoſe. (*e*)

XXXVIII. Every court granting a certificate for a probat or adminiſtration, ſhall nominate three or more appraiſers in every county or corporation, where any of the perſonal eſtate of the decedent ſhall be, who, being ſworn before a juſtice of the peace for that purpoſe, ſhall truly and juſtly, to the beſt of their judgment, view and appraiſe all the perſonal eſtate to them produced, and ſhall return ſuch appraiſement under their hands to the court ordering the ſame; which appraiſement, if ſigned by the executor or adminiſtrator, may be conſidered as an inventory of ſuch part of the eſtate, as had heretofore come to his hands. (*f*)

XXXIX. Inventories and appraiſements may be given in evidence in any ſuit by or againſt the executor or adminiſtrator, but ſhall not be concluſive for or againſt him, if other teſtimony be given that the eſtate was really worth, or was, bona fide, ſold for more or leſs than the appraiſement. (*g*)

XL. Each appraiſer ſhall be entitled to fifty cents per day, for his attendance, to be paid by the executor or adminiſtrator, and charged to the eſtate. (*h*)

XLI Executors and adminiſtrators, whether it be neceſſary for payment of debts, or not, ſhall, as ſoon as convenient after they are qualified, ſell at public ſale, all ſuch goods of their teſtator or inteſtate, ſpecific legacies excepted, as are liable to periſh, be conſumed, or rendered worſe by keeping, giving ſuch credit as they ſhall judge beſt, and

(*a*) 1785 c 61 § 30. (*b*) 1785 c 61 § 31. (*c*) 1785 c 61 § 32 (*d*) 1785 c. 61 § 33 (*e*) 1785 c 61 § 34 (*f*) 1785 c 61 § 35 (*g*) 1785 c 61 § 36 (*h*) 1785 c 61 § 37.

the circumſtances of the eſtate will admit of, taking bond and good ſecurity of the purchaſers, and ſhall account for ſuch goods according to the ſales: If more be ſold than will pay the debts and expenſes, the executor or adminiſtrator may aſſign the bonds for the ſurplus, to thoſe entitled to the eſtate, and be diſcharged as to ſo much; and if after ſuch aſſignment, the obligor become inſolvent ſo as the money be loſt, without the fault or neglect of the aſſignee, then ſuch loſs ſhall be made good to the aſſignee, out of the decedent's eſtate. (*a*)

XLII. If ſuch periſhable goods be not ſufficient for paying the debts and expences, the executor or adminiſtrator ſhall proceed in the next place, to ſell the other perſonal eſtate, until the debts and expences be all paid, having regard to the privilege of ſpecific legacies. (*b*)

XLIII. Nevertheleſs, if the teſtator direct his eſtate not to be appraiſed, it ſhall be ſufficient to return an inventory thereof only; and if he direct his eſtate not to be ſold, the ſame ſhall be preſerved in ſpecie, unleſs a ſale be neceſſary for the payment of debts. (*c*)

XLIV. The dead victuals and liquors, which at the death of any teſtator or inteſtate, ſhall have been laid in for conſumption in his family, ſhall not be ſold by the executor or adminiſtrator, but ſhall remain for the uſe of ſuch family, without account thereof to be made: If, however, before its final conſumption, any child ſhall leave the family, ſuch child ſhall have a right to carry with him or her, an equal ſhare of what ſhall then be on hand. Any live ſtock which may be neceſſary for the food of the family, may alſo be killed for that uſe, at any time before the ſale, diviſion or diſtribution of the eſtate. (*d*)

XLV. The ſale and conveyance of lands deviſed to be ſold, ſhall be made by the executors, or ſuch of them as ſhall undertake the execution of the will, if no other perſon be thereby appointed for that purpoſe, or if the perſon ſo appointed ſhall refuſe to perform the truſt, or die before he ſhall have completed it. But if none of the executors named in ſuch will ſhall qualify, or after they have qualified, ſhall die before the ſale and conveyance of ſuch lands, then in thoſe caſes, the ſale and conveyance thereof, ſhall be made by ſuch perſon or perſons to whom adminiſtration of the teſtator's eſtate, with the will annexed, ſhall be granted. (*e*)

XLVI. If any perſon ſhall die after the firſt day of March, the ſervants and ſlaves of which he was poſſeſſed, whether held for life or for other intereſt, and which were employed in making a crop, ſhall be continued on the plantations in the occupation of the decedent, until the laſt day of December following, and then delivered to thoſe who ſhall have a right to demand the ſame; and their crops ſhall be aſſets in the hands of the executors and adminiſtrators, ſubject to debts, legacies and diſtribution; the levies and taxes, their tools, the expence of feeding them and their families to that time, and delivering them well cloathed, being firſt deducted. And if ſuch ſlaves or ſervants be held by the teſtator or inteſtate for his or her life only, in that caſe the executor or adminiſtrator ſhall be obliged to deliver, to thoſe who are entitled in remainder or reverſion, three barrels of Indian corn for every ſuch ſervant or ſlave, old and young, to be allowed in their accounts of adminiſtration. (*f*)

XLVII. If a teſtator or inteſtate ſhall die after the firſt day of March, all the emblements of his lands which ſhall be ſaved before the thirty firſt day of December following, ſhall in like manner be aſſets in the hands of the executor or adminiſtrator, but all ſuch emblements growing on the lands on that day, or at the time of the death of the teſtator or inteſtate, if that event happen after the thirty-firſt day of December, and before the firſt day of March, ſhall paſs with the land to the heir, deviſee, reverſioner, or remainder man. (*g*)

(*a*) 1785 c 61 § 38—2 Geo II c 3 § 27 (*b*) 1787 c 61 § 39 (*c*) 1787 c 61 § 40 (*d*) 1787 c 61 § 41 (*e*) 1787 c 61 § 42 (*f*) 1787 c 61 § 43 (*g*) 1787 c 61 § 44.

XLVIII. If there be tenant for life of lands or ſlaves let or hired to another, at the death of ſuch tenant for life, if that event happen after the firſt day of March, the leſſee or perſon hiring, ſhall hold the lands and ſlaves until the laſt day of December following, paying rent or hire to that time, and in the caſe of ſlaves, delivering them well cloathed. (*a*)

XLIX. The rent of land or hire of ſlaves ſhall be apportioned between the executor or adminiſtrator of him, who having a freehold, or other uncertain eſtate in the land, and the uſe for life, or for other uncertain term in the ſlaves, ſhall die before the rent or hire become due, and him who ſhall ſucceed to the lands and ſlaves, as heir, deviſee, or perſon in reverſion or remainder, unleſs in the caſe of a deviſee, the contrary be directed by the teſtator. (*b*)

L. The appointment of a debtor executor ſhall in no caſe be deemed an extinguiſhment of the debt, unleſs it be ſo directed in the will. (*c*)

LI. No diſtribution ſhall be made of an inteſtate's eſtate until nine months after his death, nor ſhall an adminiſtrator be compelled to make diſtribution at any time, until bond and ſecurity be given by the perſon entitled to diſtribution, to refund due proportions of any debts or demands, which may afterwards appear againſt the inteſtate, and the coſts attending the recovery of ſuch debts. (*d*)

LII. Executors and adminiſtrators ſhall be allowed in their accounts all reaſonable charges and diſburſements which they ſhall lay out and expend in the funeral of the deceaſed, and other their adminiſtration, and may be allowed ſuch recompence for their perſonal trouble, as the court on paſſing their accounts, ſhall judge reaſonable. (*e*)

LIII. The executors or adminiſtrators of a guardian, of a committee, or of any other perſon, who ſhall have been chargeable with, or accountable for the eſtate of a ward, an ideot, or a lunatic, or the eſtate of a dead perſon, committed to their teſtator or inteſtate by a court of record, ſhall pay ſo much as ſhall be due from the teſtator or inteſtate, to the ward, ideot, or lunatic, or to the legatees, or perſons entitled to diſtribution, before any proper debt of their teſtator or inteſtate. (*f*)

LIV. Where any perſon ſhall die ſeized of lands held for life of another, ſuch perſon may, by his or her laſt will and teſtament in writing, made and proved, as is herein before directed for the deviſe of lands, deviſe all his intereſt in ſuch lands, which ſhall, if neceſſary, be aſſets in the hands of ſuch deviſee. And if no ſuch deviſe be made, ſuch lands for the reſidue of the term ſhall be aſſets in the hands of the heir, if it ſhall come to him by reaſon of a ſpecial occupancy, in the ſame manner as lands deſcending in fee ſimple; and if there be no ſpecial occupant, it ſhall go to the executors or adminiſtrators of the perſon ſo dying ſeized, and be aſſets in their hands, ſubject to debts, legacies, and diſtribution. (*g*)

LV. Executors or adminiſtrators may ſue, or be ſued upon all judgments, bonds, or other ſpecialties, bills, notes, or other writings of their teſtators or inteſtates, whether the executors or adminiſtrators be, or be not named in ſuch inſtruments, and alſo upon all their perſonal contracts. (*h*)

LVI. If any ſuit ſhall be brought againſt any executor or adminiſtrator for the recovery of a debt due upon an open account, it ſhall be the duty of the court before whom ſuch ſuit ſhall be brought, to cauſe to be expunged from ſuch account, every item thereof which ſhall appear to have been due five years before the death of the teſtator or inteſtate. Saving to all perſons non compos mentis, femes covert, infants, impriſoned, or out of this commonwealth, who may be plaintiffs in ſuch ſuits, three years after their ſeveral diſabilities removed; and if any perſon ſhall wilfully poſt date any ſuch account, he ſhall forfeit and pay ten fold the amount of the articles ſo poſt-dated, to be recovered by action of

(*a*) 1787 c 61 § 45 (*b*) 1687 c 61 § 46 (*c*) 1787 c 61 § 47 (*d*) 1787 c 61 § 48 (*e*) 1787 c 61 § 49 (*f*) 1787 c 61 § 50 (*g*) 1787 c 61 § 51 (*h*) 1787 c 61 § 52.

debt in any court of record, where the penalty incurred ſhall exceed twenty dollars, and by petition where the penalty incurred ſhall be under that ſum.

LVII. No action of debt ſhall be brought againſt any executor or adminiſtrator upon a judgment obtained againſt his teſtator or inteſtate, nor ſhall any ſcire facias be iſſued againſt any executor or adminiſtrator to revive ſuch judgment after the expiration of five years from the qualification of his executor or adminiſtrator, and all ſuch judgments after the expiration of five years, upon which no proceedings ſhall have been had, ſhall be deemed to have been paid and diſcharged. Saving to all perſons non compos mentis, femes covert, infants, impriſoned, or out of this commonwealth, who may have been entitled to the benefit of any ſuch judgment, three years after their ſeveral diſabilities removed.

LVIII. Actions of treſpaſs may be maintained by or againſt executors or adminiſtrators, for any goods taken or carried away in the lifetime of the teſtator or inteſtate, and the damages recovered ſhall be, in the one caſe, for the benefit of the eſtate, and in the other, out of the aſſets. (*a*)

LIX. Executors of executors ſhall do and perform all things in the execution of the will of the firſt teſtator, which ſhall remain undone at the death of the firſt executor; and ſhall and may ſue, or be ſued, in all things reſpecting the eſtate, in the ſame manner as if ſuch firſt executor could or might have ſued, or been ſued. (*b*)

LX. The executor or adminiſtrator of an executor in his own wrong, and the executor or adminiſtrator of a rightful executor or adminiſtrator, by whom any waſte ſhall have been committed, ſhall be chargeable in the ſame manner as his teſtator or inteſtate might have been. (*c*)

LXI. If all the executors named in any laſt will ſhall refuſe to undertake the executorſhip, or being required to give ſecurity, ſhall refuſe to give or be unable to procure the ſame, and no perſon will apply for adminiſtration with the will annexed: Or, if no perſon will apply for adminiſtration of the goods and chattels of any inteſtate, it ſhall be lawful for the general court, or other court having juriſdiction of ſuch probat or adminiſtration, as herein before mentioned, after the expiration of three months from the death of the teſtator or inteſtate, to order the ſheriff or other officer of the county or corporation, to take the eſtate into his poſſeſſion, and make ſale of ſo much thereof by public auction, as the payment of debts ſhall make neceſſary, or as ſhall be periſhable, or be directed by will to be ſold: And all ſales and conveyances, bona fide made by the ſheriff or his deputies, or other officer, in conſequence of ſuch order, ſhall be as effectual to the purchaſers, as if they had been made by the teſtator or inteſtate in his lifetime. The eſtate ſhall be ſold upon ſuch credit as the court ſhall direct, and upon public notice previouſly given, the purchaſers giving bond and good ſecurity for payment according to the limited time of credit. The ſheriff or other officer may ſue, if neceſſary, for recovery of debts, or of goods and chattels, and ſhall make a true and perfect inventory of the whole eſtate, and an account of ſales, and ſhall return the ſame, together with the bonds, to the court by whom he was ordered to ſell, without delay, who ſhall firſt direct the payment of ſuch debts as ſhall be proved before him, and proportion the aſſets amongſt the creditors, without regard to the dignity of debts, where there ſhall not be ſufficient to pay the whole; but if there be ſufficient, they may order the ſurplus, if any, to the legatees or next of kin to the decedent, according to the directions of the will, or of this act. Whereupon the ſheriff, or deputy, or other officer, ſhall aſſign the bonds and deliver the eſtate remaining unſold, to the creditors or others according to ſuch order, retaining nevertheleſs his commiſſions, which ſhall be the ſame upon the eſtate by him ſold, as is allowed for goods taken in execution; and where the whole eſtate is not ſold, he ſhall moreover be allowed his reaſonable expences and diſburſements in the care of the part unſold. (*d*)

(*a*) 1787 c 61 § 53 (*b*) 1787 c 61 § 54 (*c*) 22 Geo. II. c 3 § 36. (*d*) 1785 c 61 § 55.

LXII. All ſales and conveyances of lands heretofore bona fide made by a ſheriff or other officer, under any order of court where the lands had been deviſed to be ſold, and the executor had refuſed to act, are hereby confirmed and made effectual againſt all perſons claiming under the teſtator. (*a*)

The repealing clauſe is, in ſubſtance, as in the appendix, No. 7.

December the 5th, 1794.

§ I. IF a teſtator having a child or children born at the time of making and publiſhing his laſt will and teſtament, ſhall at his death leave a child or children born after the making and publiſhing of his ſaid laſt will and teſtament, the child or children ſo after born, if ſuch child or children be unprovided for by ſettlement, and be neither provided for nor diſinherited, but only pretermitted by the laſt will and teſtament, ſhall ſucceed to the ſame portion of the father's eſtate as ſuch child or children would have been entitled to if the father had died inteſtate; towards raiſing which portion the deviſees and legatees ſhall contribute proportionably out of the parts deviſed and bequeathed to them by the ſame will and teſtament, in the ſame manner as is provided in the caſe of poſthumous children.

II. And whereas by an act, intituled, "an act reducing into one, the ſeveral acts concerning ſlaves, free negroes, and mulattoes," it is enacted, "That all negro and mulatto ſlaves in all courts of judicature within this commonwealth, ſhall be held, taken and adjudged to be perſonal eſtate," And whereas by the act "Reducing into one the ſeveral acts concerning wills, the diſtribution of inteſtates eſtates, and the duty of executors and adminiſtrators," it is alſo enacted, "That executors and adminiſtrators, whether it be neceſſary for payment of debts or not, ſhall as ſoon as convenient after they are qualified, ſell at public ſale all ſuch goods of their teſtator or inteſtate, ſpecific legacies excepted, as are liable to periſh, be conſumed, or rendered worſe by keeping:" And whereas doubts may ariſe whether as ſlaves being perſonal eſtate, are periſhable and liable through age or ſickneſs to be rendered of leſs value by keeping, executors and adminiſtrators are not bound to ſell the ſame whether it be neceſſary for the payment of debts or not: For declaring the law touching the ſame: Executors and adminiſtrators ſhall not ſell the ſlaves of their teſtators or inteſtates, unleſs the other part of the perſonal eſtate, regard being had to the privilege of ſpecific legacies, ſhall not be ſufficient for paying the debts and expences, and in that caſe ſuch part only of the ſlaves ſhall be ſold as ſhall be ſufficient to ſatisfy the debts and expences, and the reſidue of the ſlaves ſhall be reſerved in kind for the legatees or diſtributees, of their teſtators or inteſtates reſpectively.

WRECKS.

June the 20th, 1782.

§ I. WHEREAS many veſſels, have been and may hereafter be ſtranded on the ſea coaſt, bay or river ſhores within this commonwealth, and the goods and other property belonging to ſuch veſſels may be embezzled and ſtolen, to the great injury of the owners: For remedy whereof, it ſhall be lawful for the governor, with advice of council, and he is hereby required, to appoint and commiſſion two diſcreet perſons in each of the counties bordering on the ſea or bay ſhores in this ſtate, whoſe buſineſs and duty it ſhall be, on the earlieſt intelligence, or on application to them made, by or on behalf of any owner or commander of a ſhip or other veſſel being in danger of being ſtranded, or being ſtranded, to command any conſtable or conſtables, to be appointed by them for that purpoſe, neareſt the

(*a*) 1785 c 61 § 56.

coaſt where ſuch ſhip or veſſel ſhall be in danger, to ſummon as many men as ſhall be thought neceſſary to the aſſiſtance of ſuch ſhip or veſſel; and if there ſhall be any ſhip or veſſel belonging to the ſtate riding near the place, the commiſſioner or commiſſioners ſhall have power to demand of the commanding officer of ſuch ſhip or veſſel, aſſiſtance by their boats and ſuch hands as they can conveniently ſpare; and if any commanding officer ſhall neglect to give ſuch aſſiſtance, he ſhall forfeit one hundred pounds, to be recovered by the officer or owner of the ſhip in diſtreſs, with coſts, in any court of record within this commonwealth. The commiſſioner or commiſſioners, and the commanding officer of any ſhip or veſſel, and all others who ſhall aſſiſt in preſerving any ſhip or other veſſel in diſtreſs, or their cargoes, ſhall, within forty days, be paid a reaſonable reward by the commander or owner of the ſhip or other veſſel in diſtreſs, or by the merchant whoſe veſſel or goods ſhall be ſaved, and in default thereof, the veſſel or goods ſhall remain in the cuſtody of the commiſſioner or commiſſioners until all charges be paid, or ſecurity given for that purpoſe, to the ſatisfaction of the parties. And in caſe the parties ſhall diſagree touching the monies deſerved by the perſons employed, it ſhall be lawful for the commander of ſuch veſſel ſaved, or the owner of the goods, or merchant intereſted, to chooſe one indifferent perſon, and alſo for the commiſſioner or commiſſioners to nominate one other indifferent perſon, who ſhall adjuſt the quantum of the gratuities to be paid to the ſeveral perſons, and ſuch adjuſtments ſhall be binding on all parties, and to be recoverable, with coſts, in any court of record within this commonwealth, by action on the caſe. If no perſon ſhall claim the goods ſaved, the commiſſioners, or one of them, ſhall take poſſeſſion thereof, and cauſe a true deſcription of the marks, numbers, and kinds of ſuch goods to be advertiſed four weeks in the Virginia Gazette, and if no perſon ſhall claim the ſame within three months, public ſale ſhall be made thereof, (but if periſhable, the goods ſhall be forthwith ſold) and after charges deducted, the reſidue of the money, with an account of the whole, ſhall be tranſmitted to the treaſurer, who ſhall keep an account of the ſame, for the benefit of the owners, who upon proof of his property to the ſatisfaction of the auditors, ſhall upon their warrant receive the ſame. If any perſon beſides thoſe empowered by the commiſſioners, or one of them, ſhall enter or endeavor to enter on board any veſſel in diſtreſs, without the leave of the commanding officer, or in caſe any perſon ſhall moleſt them in ſaving the veſſel or goods, or ſhall endeavor to hinder the ſaving ſuch veſſel or goods, or ſhall deface the marks of any ſuch goods before they be taken down in a book by the commiſſioners, or one of them, every ſuch perſon ſhall forfeit and pay the ſum of ten pounds, to be recovered with coſts, by information in any court of record within this commonwealth, and applied to the uſe of the owners of the veſſel or goods, as the caſe may be; and in caſe of failure to pay ſuch forfeiture immediately, or giving ſecurity to pay the ſame within one month, he, ſhe, or they, ſhall receive ten laſhes on his, her, or their bare back, by order of ſuch court. It ſhall be lawful for any commanding officer of a veſſel in diſtreſs, or the commiſſioners, to repel by force any perſons as ſhall, without conſent as aforeſaid, preſs on board any veſſel in diſtreſs, and thereby moleſt them in preſerving the veſſel or goods; and in caſe any goods ſhall be found upon any perſon that was ſtolen or carried off from any veſſel in diſtreſs, the perſon on whom ſuch goods be found, ſhall, upon demand, deliver the ſame to the owner or commiſſioners, or to ſuch other perſon as ſhall be authoriſed by the commiſſioners or owner to receive ſuch goods, or ſhall be liable to pay treble the value, to be recovered, with coſts, in any court of record. If any perſon ſhall make or be aſſiſting in making a hole in any veſſel in diſtreſs, or ſteal any pump, materials, or goods, or ſhall be aiding in ſtealing ſuch pump, materials, or goods, from any veſſel, or ſhall wilfully do any thing tending to the immediate loſs of ſuch veſſel, ſuch perſon ſhall be guilty of felony, and ſuffer death without benefit of clergy; any commiſſioner by fraud or wilful neglect, abuſing the truſt repoſed in him, ſhall, upon conviction thereof, forfeit and pay treble damages to the party aggrieved, to be recovered, with coſts, by action on the

caſe in any court of record, and ſhall thenceforth be incapable of acting as a commiſſioner. Any conſtable, or perſon, ſummoned by him, refuſing or neglecting to give the aſſiſtance required for the ſaving of any veſſel or her cargo, ſhall forfeit and pay twenty-five ſhillings, to be recovered before any juſtice, by the commiſſioners ordering the duty, and ſhall be moreover ſubject to the payment of the ſame damages, and to be recovered by the party aggrieved in the ſame manner, as in the caſe of a commiſſioner. The commiſſioners ſhall ſet up a copy of this act, once in every year in each of the courthouſes of the counties wherein they reſpectively reſide.

II. The commiſſioners appointed by virtue of this act, ſhall reſpectively give bond and ſecurity in the court of the county where he reſides, in the ſum of one thouſand pounds, for the due and faithful execution of his office, and that it ſhall not be lawful for ſuch commiſſioner, or any of them, to enter upon the duties of his office before he gives bond and ſecurity as aforeſaid.

III. Where any veſſel ſhall be ſtranded and totally loſt, goods ſaved from the wreck ſhall not be liable to entry and duties; but if any veſſel be drove or caſt on ſhore, and the damage ſuſtained on the goods does not appear to exceed ten per centum, in the judgment of the commiſſioners, ſuch goods ſhall be duly entered with the naval officer neareſt the place where the caſe happened, according to law.

WRIT OF RIGHT.

December the 2d, 1786—but commenced July. 1, 1787.

§ I. FOR the trial of diſputed titles to lands in a more ſimple mode than that which hath moſt commonly been uſed of late, the claimant or demandant of an eſtate in fee ſimple may ſue forth againſt the poſſeſſor or tenant a writ of præcipe quod reddat; which iſſuing from the general court ſhall be in this form, or to this effect,

"The commonwealth of Virginia, to the ſheriff of E. greeting: Command C. D. that "he juſtly and without delay, render unto A. B. tenement containing of land, "with the appurtenances in the county of E. which he claimeth to be his right, and "whereof he complaineth that the aforeſaid C. D. doth withhold the poſſeſſion. And, "unleſs, he ſhall do ſo then ſummon the ſaid C. D. that he appear before the juſtices of "our general court, at on the day of the next court, to ſhew wherefore "he hath not done it. And have you then there this writ. Witneſs chief juſ-"tice of our ſaid court, at the day of in the year ."

And iſſuing from the court of a county, city, or borough, in the like form, with neceſſary alterations; and ſhall be directed to the ſheriff of that county, or the proper officer of that city, or borough, wherein the tenant reſideth, or that wherein was his laſt place of abode. Upon which writ the count ſhall be in this form, or to this effect;

"E. to wit; A. B. by F. G. his attorney, demands againſt C. D. tenement, "containing of land, with the appurtenances, in the county of E. and bounded "by And whereupon the ſaid A. B. ſaith that he hath right to have the tenement "aforeſaid, with the appurtenances, and offereth proof that ſuch is his right."

If ſeveral tenements be demanded in the ſame count, the contents, ſituations, and boundaries of each ſhall be inſerted therein. To which count the tenant may plead in this form, or to this effect;

"And the aforeſaid C. D. by H. I. his attorney, cometh and defendeth the right of the

" ſaid A. B. when and where it behooveth him, and all that concerneth it, and whatſoever " he ought to defend, and chiefly the tenement aforeſaid, with the appurtenances as of " right, namely tenement containing of land in the county of E. and bound- " ed by and putteth himſelf upon the aſſize, and prayeth recognition to be made, " whether he hath greater right to hold the tenement aforeſaid with the appurtenances, as " he now holdeth it (or them) or the ſaid A. B. to have it as he now demandeth it (or " them.")

And to ſuch plea the replication ſhall be in this form, or to this effect;

" And the aforeſaid A. B. in like manner putteth himſelf upon the aſſize, and prayeth " recognition to be made whether he hath greater right to hold the tenement aforeſaid as " he demandeth, or the ſaid C. D. as he holdeth it (or them.")

Whereupon twelve good and lawful men, qualified as jurors are required to be, ſhall be elected, tried, and charged, as the manner is, to make recognition of the aſſize; which charge ſhall be in this form, or to this effect:

" You ſhall ſay the truth, whether C. D. hath more right to hold the tenement, which " A. B. demandeth againſt him, by his writ of right, or A. B. to have it (or them) as he " demandeth."

And at the trial, any matter may be given in evidence which might have been ſpecially pleaded. And upon the verdict, or in caſe of a demurrer, the like judgment ſhall be given, and upon ſuch judgment, the like execution awarded, as in caſe of a writ of right; and the party, for whom judgment ſhall be given, ſhall recover his coſts of ſuit; and the demandant, if he recover his ſeiſin, may alſo recover damages to be aſſeſſed by the recognitors of aſſize, for the tenants withholding poſſeſſion of the tenement demanded.

II. Where the præcipe quod reddat ſhall iſſue from the general court, if return thereof be made that the tenant is not found in the bailiwick of the officer to whom it was directed, the demandant may ſue forth a writ of exigi facias in this form, or to this effect;

" The commonwealth of Virginia, to the ſheriff of E. greeting: We command you " that you cauſe C. D. to be required, from county court to county court, until five courts " be paſſed, if he doth not appear, and if he doth appear, then ſummon him that he be " before the juſtices of our general court, at on the day of the next court, " to ſhew wherefore he hath not rendered unto A. B. tenement containing " of land, with the appurtenances, in the county of E. And have you then there this " writ. Witneſs chief juſtice of our ſaid court, at , the day of " , in the year ."

And when the reſidence or laſt place of abode of the tenant ſhall be out of the county, in which the land demanded lieth, a like writ of exigi facias ſhall alſo be directed to the ſheriff of the latter county, and in either caſe a copy of ſuch writ ſhall within four weeks after the teſte thereof, be printed in the Virginia Gazette; and the ſaid writ or writs of exigi facias being returned in due form, and being printed as aforeſaid, if the tenant ſhall not appear at the court to which the ſame is or are returnable, judgment ſhall be entered, that the demandant recover his ſeiſin againſt the tenant.

III. Where the præcipe quod reddat ſhall iſſue from the court of a county, city, or borough, if return thereof be made that the tenant is not found in the bailiwick of the officer to whom it was directed, the demandant may ſue forth a new præcipe every court, for five courts following, ſucceſſively, if the tenant be not by one or other of them before ſummoned; and when the reſidence or laſt place of abode of the tenant ſhall be out of the

county, city, or borough, in which the land demanded lieth, a teſtatum præcipe ſhall alſo be directed to the ſheriff or proper officer of the latter county, city, or borough; and in either caſe a copy of the firſt of the ſaid five præcipes, ſhall within four weeks after the teſte thereof, be printed in the Virginia Gazette, and a copy of that and every other of them, ſhall, within fourteen days after the teſte of each, be ſet up at the door of his courthouſe by the officer to whom it ſhall be directed, and who by an endorſement on ſuch writ, ſhall be required by the clerk to do ſo; and return of the ſaid five writs being made that the tenant is not found in the bailiwick or bailiwicks of the officer or officers, to whom they were directed, and that they had been ſet up as is before directed, and the firſt of them being printed as aforeſaid, if the tenant ſhall not appear at the court to which ſome one of the ſaid writs was returnable, judgment ſhall be entered, that the demandant recover his ſeiſin againſt the tenant: but if the tenant, againſt whom, without having appeared, or without having been ſummoned, any ſuch judgment ſhall be rendered, ſhall be out of Virginia, at the time of the ſuit brought, the judgment ſhall be no bar to an action commenced by him, or any claiming under him, to be reſtored to the land recovered, within a year and a day after he or they ſhall come into the country, or remaining out of it, within ſeven years after the judgment; in which action, or in a ſeparate one, damages may alſo be recovered.

IV. If the tenant whether ſummoned or not ſhall appear, and afterwards make default, judgment ſhall be entered againſt him; and if having been ſummoned he ſhall not appear, the court ſhall make an order, that, unleſs he appear at the then next court, *(a) or ſee* judgment ſhall be entered againſt him, which ſhall be entered accordingly, if a copy of that order being delivered to him, or left at the place of his uſual abode, fifteen days, or more, before ſuch next court, and affidavit thereof being made, he ſhall not then appear.

V. If the demandant or tenant, againſt whom any ſuch judgment ſhall be rendered, at the time of the ſuit brought, ſhall be an infant, a married woman, or a perſon of unſound mind, the judgment ſhall be no bar to another action, commenced within five years after attainment of full age, diſcoverture, or recovery of underſtanding, or within the ſame time after the death of ſuch privileged perſon.

WRITS. *See Writ of Right.* *See alſo, Habeas Corpus.*

WRONGFUL ALIENATIONS OF LANDS. *See Right of Entry.*

(a) The words "or ſee" are in the roll, but it is ſuppoſed were inſerted by miſtake.

The two following Laws were omitted under their proper heads through miſtake.

COUNTY AND CORPORATION COURTS.

November the 2d, 1792—but commenced Oct. 1, 1793.

§ I. EVERY perſon hereafter admitted into office by any county or other inferior court, as clerk or deputy-clerk of ſuch court, ſhall at the time of his admiſſion, or appointment to ſuch office, take the following oath:

"I, A. B. do ſwear that I will well and truly exerciſe the office of "according to the beſt of my ſkill and judgment, making due entries and record of all or- "ders, judgments, decrees, opinions or proceedings of the court, and carefully filing and pre- "ſerving in my office, all books and papers whatſoever, which ſhall be delivered me in charge, "or otherwiſe come to my hands or poſſeſſion by virtue of my ſaid office; and that I will "not wittingly or willingly commit any malfeazance of office, but in all things and at all "times keep my ſaid office free and acceſſible to every perſon having a right or claim to "buſineſs therein, and faithfully execute the duties thereof, without favor, affection, or "partiality. So help me God." (*a*)

And if any perſon ſhall preſume to execute the office of clerk or deputy clerk of any county, or other inferior court, without taking ſuch oath, he ſhall forfeit and pay fifteen hundred dollars, and ſuffer one year's impriſonment without bail or mainprize.

II. If any clerk ſhall wittingly make any falſe entry, or raſe, alter or change any record in his keeping belonging to his office, every ſuch clerk ſo offending ſhall be amerced and impriſoned at the diſcretion of a jury; and ſhall moreover be liable to the action of the party grieved. And if any judgment be reverſed, by reaſon of any ſuch falſe entry, raſure, alteration, or change, the party grieved may ſue by writ of error, or otherwiſe according to law, if he ſee it expedient for him. (*b*)

III. Every clerk of a county or other inferior court ſhall, at the time of his appointment and qualification as aforeſaid, enter into bond, with ſecurity, to be approved of by the court, in the penalty of three thouſand dollars, payable to the governor and his ſucceſſors, for the time being, with condition for the due and faithful execution of his office, and that he will not remove or carry, or ſuffer to be carried or removed out of the county or corporation, the records and papers of the court whereof he is clerk, or any part thereof, except in caſes allowed by law; which bond ſhall by ſuch clerk be tranſmitted within three months to the clerk of the court of the diſtrict in which the ſaid county or corporation may be, to be by him regiſtered and preſerved among the papers of his office, and may be proſecuted upon againſt any ſuch clerk and his ſecurities, in the name of the governor, or his ſucceſſors, for the uſe of any perſon or perſons who ſhall or may be injured, at his, her or their coſts and charges, who ſhall and may recover all damages which he, ſhe, or they may have ſuſtained by reaſon of the breach of the condition of the ſaid bond; and ſuch bond ſhall not become void upon the firſt recovery, or if judgment ſhall be given againſt any plaintiff or plaintiffs who ſhall ſue on ſuch bond, but may be put in ſuit and proſecuted from time to time, for the benefit and at the proper coſts and charges of any party injured, until the whole ſum of three thouſand dollars, the penalty expreſſed in ſuch bond, ſhall be

(*a*) Oct. 1784 c 60 § 2. (*b*) St. 8 Rich. II. c 4.

recovered; and ſuch clerk failing to tranſmit ſuch bond to the clerk of the ſaid diſtrict court for the time being, within the term aforeſaid, ſhall forfeit and pay three hundred dollars, or preſuming to execute his office without entering into ſuch bond, ſhall forfeit and pay ſix hundred dollars, and ſuffer three months impriſonment. (*a*)

IV. It ſhall not be lawful for the court of any county or corporation, or the clerk of any ſuch court, to remove, or cauſe to be removed, the records and papers of the ſame, or any part thereof, without the county or corporation, except in caſes of actual invaſion or inſurrection, where in the opinion of the court the ſame will be endangered, or where for want of ſuch opinion, occaſioned by the ſuddenneſs of the alarm or danger, the clerk ſhall at his own diſcretion remove the ſame, returning them as ſoon as the alarm or danger ceaſes, or except alſo in other caſes heretofore provided for by law; any member of a court, or clerk of the ſame, offending herein, ſhall forfeit and pay ſix hundred dollars. (*b*)

V. Every clerk appointed ſince the fourth day of June, one thouſand ſeven hundred and ſeventy-ſix, ſhall reſide within the county or corporation in which he ſhall hold his office; and every clerk of a county or corporation court, ſhall keep his office at the court houſe of the county in which he reſides, or at ſuch other convenient place, as the court of the county or corporation may direct, under penalty of being incapacitated therefrom, by information in the general court. *Provided always*, that the clerks of county and corporation courts may keep their ſeveral offices at any place within their reſpective counties or corporations, until otherwiſe directed by their courts as aforeſaid, and until an office built with brick and covered with tile, lead, or ſlate, with ſo much land as the court ſhall judge neceſſary thereunto appurtenant, ſhall be provided for the uſe of the ſaid clerks and their ſucceſſors, at the expence of their counties or corporations reſpectively, to be aſſeſſed in their levies. (*c*)

VI. All the penalties by this act impoſed, ſhall be proſecuted for, and recovered by bill, plaint, or information, in any court of record, one moiety to the uſe of the informer, and the other moiety to the uſe of the commonwealth.

VII. The clerks of the ſeveral courts aforeſaid, ſhall reſpectively, on or before the firſt day of April, and firſt day of October, in every year, account for on oath, and pay into the public treaſury, all the monies which by an act, intituled. "An act to reduce in-" to one, the ſeveral acts concerning the public revenue," they are authoriſed to receive, after a deduction of five per centum therefrom, as a commiſſion for the ſervice thereby impoſed, and in caſe of fraud herein by any clerk, he ſhall, on conviction thereof, be deprived of his office. (*d*)

VIII. Whenſoever the court of any county or corporation within this commonwealth ſhall be ſo divided in the appointment of a clerk, that neither of the candidates ſhall be elected, the high ſheriff of ſuch county, or the preſiding magiſtrate of ſuch corporation court, ſhall decide in favor of one of thoſe candidates, between whom the court ſhall be divided. (*e*)

IX. The Juſtices of the ſeveral county and corporation courts, ſhall annually appoint two or more fit perſons of their number, to inſpect the clerk's office of their county or corporation, and to report to the next court, the condition in which they find the papers and records. (*f*)

X. The clerk of every county or corporation court, ſhall enter in a docket or book to be kept by him for that purpoſe, a liſt of all executions by him iſſued, the name of the perſon to whom delivered, and what return is made thereon, in caſe the ſame be returned, and ſhall conſtantly carry the ſaid book to his court. (g)

The repealing clauſe is, in ſubſtance, as in the appendix No. 18.

(*a*) Oct. 1784 c 60 § 3 (*b*) 1784 c 60 § 4 (*c*) 1784 c 60 § 5 (*d*) 1784 c 47 3 4 (*e*) 1787 c 23 § 1 (*f*) 1745 c 1 § 14 (*g*) 1764 c 6 § 11.

GUARDIANS, ORPHANS, COMMITTEES, INFANTS, MASTERS, AND APPRENTICES.

December the 26th, 1792—but commenced Oct. 1, 1793.

§ I. ALL white perſons, not being citizens of any of the confederated ſtates of America, who ſhall come into this commonwealth under contract, to ſerve another in any trade or occupation, ſhall be compellable to perform ſuch contract, ſpecifically during the term thereof, or during ſo much of the ſame as ſhall not exceed ſeven years. Infants under the age of fourteen years brought in under the like contract, entered into with the conſent of their father or guardian, ſhall ſerve till their age of twenty-one years only, or for ſuch ſhorter term as the ſaid contract ſhall have fixed (*a*)

II. The ſaid ſervants ſhall be provided by their maſter with wholeſome and ſufficient food, cloathing and lodging; and at the end of their ſervice, if they ſhall not have contracted for any reward, other than tranſportation, food, cloathing, and lodging, ſhall receive from him, one new and complete ſuit of cloathing, ſuited to the ſeaſon of the year; to wit, a coat, waiſtcoat, pair of breeches and ſhoes, two pair of ſtockings, two ſhirts, a hat and blanket. (*b*)

III. The benefit of the ſaid contract of ſervice, ſhall be aſſignable by the maſter to any perſon to whom the ſervant ſhall in the preſence of a juſtice of the peace freely conſent that it ſhall be aſſigned, the ſaid juſtice atteſting ſuch free conſent in writing, and ſhall alſo paſs to the executors, adminiſtrators, and legatees of the maſter. (*c*)

IV. Any ſuch ſervant, being lazy, diſorderly, guilty of miſbehaviour to his maſter, or in his maſter's family, ſhall be corrected by ſtripes, on order from a juſtice of the county, city, or corporation, wherein he reſides; or refuſing to work, ſhall be compelled thereto in like manner, and moreover ſhall ſerve two days for every one he ſhall have ſo refuſed to ſerve, or ſhall otherwiſe have loſt, without ſufficient juſtification. All neceſſary expences incurred by any maſter for apprehending and bringing home any abſconding ſervant, ſhall be repaid by further ſervice, after ſuch rates as the court of the county, city, or corporation, ſhall direct; unleſs ſuch ſervant ſhall give ſecurity, to be approved of by the court, for repayment in money, within ſix months after he ſhall be free from ſervice, and ſhall accordingly pay the ſame. (*d*)

V. If any maſter ſhall fail in the duties preſcribed by this act, or ſhall be guilty of injurious demeanor towards his ſervant, it ſhall be redreſſed on motion, by the court of the county, city, or corporation, wherein the ſervant reſides, by immediate diſcharge from ſervice, if the injury were groſs, or by a ſpecific order for a change in his demeanor, and a diſcharge from ſervice, if ſuch order be diſobeyed. (*e*)

VI. All contracts between maſter and ſervant during the time of ſervice, ſhall be void. (*f*)

VII. The court of every county, city, or borough, ſhall at all times receive the complaints of ſervants, being citizens of any one of the confederated ſtates of America, who reſide within the juriſdiction of ſuch court, againſt their maſters or miſtreſſes, alledging undeſerved or immoderate correction, inſufficient allowance of food, raiment, or lodging, and may hear and determine ſuch caſes in a ſummary way, making ſuch orders thereupon, as in their judgment will relieve the party injured in future; and may alſo in the ſame manner hear and determine complaints of maſters or miſtreſſes againſt their ſervants, for deſertion, without good cauſe, and may oblige the latter, for loſs thereby occaſioned, to make retribution, by further ſervices, after expiration of the times for which they had been bound. (*g*)

(*a* 1785 c 83 § 1 (*b*) 1785 c 83 § 2 (*c*) 1785 c 83 § 3 (*d*) 1785 c 83 § 4. (*e*) 1785 c 83 § 5 (*f*) 1785 c 83 § 6 (*g*) 1785 c 86 § 2.

VIII. If any ſervant ſhall, at any time, bring in goods or money, or during the time of their ſervice, ſhall, by gift or any other lawful means, acquire goods or money, they ſhall have the property and benefit thereof to their own uſe. And if any ſervant ſhall be ſick or lame, and ſo become uſeleſs or chargeable, his or her maſter or owner ſhall maintain ſuch ſervant until his or her whole time of ſervice ſhall be expired. And if any maſter or owner ſhall put away a lame or ſick ſervant, under pretence of freedom, and ſuch ſervant becomes chargeable to the county, ſuch maſter or owner ſhall forfeit and pay thirty dollars to the overſeers of the poor of the diſtrict, wherein ſuch offence ſhall be committed to the uſe of the poor of the diſtrict; recoverable with coſts, by action of debt, in any county or corporation court of this commonwealth; and moreover ſhall be liable to the action of the ſaid overſeers of the poor at the common law, for damages. *(a)*

IX. No negro, mulatto, or Indian, ſhall at any time purchaſe any ſervant, other than of their own complexion; and if any of the perſons aforeſaid, ſhall, nevertheleſs, preſume to purchaſe a white ſervant, ſuch ſervant ſhall immediately become free, and be ſo held, deemed, and taken. *(b)*

X. No perſon whatſoever ſhall buy, ſell, or receive of, to, or from any ſervant, any coin or commodity whatſoever, without the leave or conſent of the maſter or owner of ſuch ſervant; and if any perſon ſhall preſume to deal with any ſervant, without ſuch leave or conſent, he or ſhe ſo offending, ſhall forfeit and pay to the maſter or owner of ſuch ſervant, four times the value of the thing ſo bought, ſold or received; to be recovered with coſts, by action upon the caſe, in any county or corporation court of this commonwealth; and ſhall alſo forfeit and pay the further ſum of twenty dollars, to any perſon who will ſue for the ſame; to be recovered with coſts, by ſummons and petition, or receive on his or her bare back, thirty-nine laſhes, well laid on, at the public whipping-poſt, but ſhall nevertheleſs be liable to pay the coſts of ſuch petition and ſummons. *(c)*

XI. In all caſes of penal laws, where free perſons are puniſhable by fine, ſervants ſhall be puniſhed by whipping, after the rate of twenty laſhes for every eight dollars, ſo that no ſervant ſhall receive more than forty laſhes at any one time, unleſs ſuch offender can procure ſome perſon to pay the fine. *(d)*

XII. Every ſervant upon expiration of his or her time, and proof thereof made before the court of the county where he or ſhe laſt ſerved, ſhall have his or her freedom recorded, and a certificate thereof under the hand of the clerk, which ſhall be ſufficient to indemnify any perſon for entertaining or hiring ſuch ſervant; and if ſuch certificate ſhall happen to be torn or loſt, the clerk, upon requeſt, ſhall iſſue another, reciting therein the loſs of the former. And if any perſon ſhall harbour or entertain a ſervant, not having and producing ſuch certificate, he or ſhe ſhall pay to the maſter or owner of ſuch ſervant, one dollar for every natural day he or ſhe ſhall ſo harbour or entertain ſuch runaway; recoverable with coſts, by action of debt, in any county or corporation court of this commonwealth. And if any runaway ſhall make uſe of a forged certificate, or after delivery of a true certificate to the perſon hiring him or her, ſhall ſteal the ſame, and thereby procure other entertainment, the perſon entertaining or hiring, ſhall not be liable to the ſaid penalty, but ſuch runaway, beſides making reparation for loſs of time and charges of recovery, ſhall ſtand two hours in the pillory, on a court day, for making uſe of ſuch forged or ſtolen certificate; and the perſon forging the ſame, ſhall forfeit and pay thirty dollars; one moiety to the commonwealth, and the other moiety to the owner of ſuch runaway, or the informer, recoverable with coſts, in any county or corporation court of this commonwealth; and on failure of preſent payment or ſecurity for the ſame within ſix months, ſuch offender ſhall receive thirty-nine laſhes on his or her bare back, well laid on, at the com-

(*a*) 1753 c 2 § 7 (*b*) 1753 c 2 § 9 (*c*) 1753 c 2 § 10 (*d*) 1753 c 2 § 16.

mon whipping-poſt. And where a runaway ſhall happen to be hired upon a forged certificate, and afterwards denies the delivery thereof, the onus probandi ſhall lie upon the party hiring ſuch runaway. *(a)*

The repealing clauſe is, as in the appendix, No. 17.

(a) 1753 c 2 § 12.

SUPPLEMENT *from the* LAWS *of* 1796.

BRITISH DEBTS.

December the 19th, 1796.

§ I. THE treaſurer of this commonwealth for the time being, upon the application of any perſon or perſons having title thereto, ſhall deliver to him or them a certificate for each ſum of money paid into the treaſury under an act, intituled, "An act for "ſequeſtering Britiſh property, enabling thoſe indebted to Britiſh ſubjects to pay off ſuch "debts, and directing the proceedings in ſuits where ſuch ſubjects are parties," according to the principle of an act, intituled, "An act concerning monies paid into the public loan-"office in payment of Britiſh debts," and ſuch certificate ſhall expreſs the value of the ſum ſo paid, after the ſame ſhall have been reduced by the ſcale of depreciation eſtabliſhed by one other act of the general aſſembly, intituled, "An act directing the mode of ad-"juſting and ſettling the payment of certain debts and contracts, and for other purpoſes," to be due, with intereſt thereon at the rate of ſix per centum per annum, from the reſpective days on which ſuch payments were ſeverally made.

II. In all caſes where eſtates have been ſequeſtered under the act, intituled, "An act "for ſequeſtering Britiſh property, enabling thoſe indebted to Britiſh ſubjects to pay off "ſuch debts, and directing the proceedings in ſuits where ſuch ſubjects are parties," and not confiſcated under the act, intituled, "An act concerning eſcheats and forfeitures from "Britiſh ſubjects," and money ſhall have been paid into the loan-office on account of the owner of ſuah ſequeſtered eſtate in purſuance of the ſaid firſt recited act, it ſhall and may be lawful for the auditor to iſſue to the perſon on whoſe account ſuch payment has been made, or to his or her repreſentatives, a certificate or certificates for the value thereof, according to the ſcale of depreciation, with intereſt in like manner as is directed in caſes where payments have been made into the loan-office by Britiſh debtors, under the ſaid firſt recited act.

CLERKS FEES. *See County Levies, Poor Rates and Clerks Fees.*

CORPORATIONS.

December the 22d 1796.

§ I. FROM and after the paſſing of this act, the mayor, aldermen, and commonalty of the ſeveral corporate towns within this commonwealth and their ſucceſſors, ſhall upon requeſt of any perſon or perſons deſirous thereof, grant licenſes to exerciſe in ſuch town the trade or buſineſs of an auctioneer; *Provided*, that no ſuch licenſe ſhall be granted until the perſon or perſons requeſting the ſame, ſhall enter into bond with one or more ſufficient ſureties, payable to the mayor, aldermen, and commonalty of ſuch corporate town and their ſucceſſors, in ſuch penalty and with ſuch condition as by the bye-laws and ordinances of ſuch corporate town ſhall be required. *And provided alſo*, that any licenſe which may have been heretofore granted by the ſupervifor of this diſtrict, ſhall re-

main in full force during the term for which the ſame was granted. And every perſon or perſons ſo licenſed, ſhall have the ſame powers, and be ſubject to the ſame regulations, and to the payment of the ſame ſum as the vendue maſters or auctioneers, appointed, or to be appointed by the mayor, aldermen, and commonalty of the ſeveral corporate towns, are liable and ſubject to.

II. The magiſtrates of any corporate town ſhall have the ſame power to examine privily, and take the acknowledgement of a feme covert to a conveyance and to certify the ſame, as is by law given to juſtices of peace of a county; and the court of huſtings for each corporation within this commonwealth ſhall have the ſame power to admit to record, authenticated copies of wills, proved according to the laws of any of the United States or of countries without the limits of the ſame, as is given by law to the county courts.

COUNTY AND CORPORATION COURTS.

November the 30th, 1766.

§ I. FROM and after the firſt day of January next, a court of huſtings for the town of Alexandria, ſhall be held by the mayor, recorder and aldermen thereof, on the firſt monday in every month, inſtead of the day heretofore appointed by law.

II. The quarterly ſeſſions of the ſaid court, ſhall be held in the months of April, July, September, and December, inſtead of the months heretofore appointed by law.

December the 8th, 1796.

FROM and after the firſt day of May next, a court for the county of Campbell, ſhall be held by the juſtices thereof, on the ſecond Monday in every month, inſtead of the firſt Thurſday; any law to the contrary thereof, notwithſtanding.

November the 22d, 1796.

§ I. FROM and after the twentieth day of February, one thouſand ſeven hundred and ninety-ſeven, the days for commencing and holding courts in the county of Frederick, ſhall in each month, be on the Monday before the firſt Tueſday in every month, inſtead of the firſt Tueſday.

II. From and after the aforeſaid twentieth day of February, the days for holding courts in the borough of Wincheſter, ſhall in each month, be on the Friday before the firſt Monday, inſtead of the firſt Monday.

November the 17th, 1796.

FROM and after the firſt day of March next, a court for the county of Southampton, ſhall be held by the juſtices thereof, on the third Monday in every month, inſtead of the ſecond Thurſday; and that a court of quarter ſeſſions, ſhall be held in the ſaid county, in the months of June and September, annually, inſtead of the months of May and Auguſt; any law to the contrary notwithſtanding.

December the 7th, 1796—but commenced April 1, 1797.

THE act paſſed at the laſt ſeſſion, for altering the quarterly courts in the county of Mecklenburg, ſhall be, and the ſame is hereby repealed: And the quarterly courts for the ſaid county, ſhall be holden as before the paſſage of the ſaid recited act.

December the 21ſt, 1796.

THE juriſdiction of the court of huſtings of Norfolk borough, ſhall extend to all veſſels lying at any wharf, projecting from the ſaid borough, and alſo to all veſſels made a ſt to others lying at the wharves, or in the docks or waters within the wharves.

December the 1ſt, 1796.

FROM and after the firſt day of May next, a court for the county of Powhatan, ſhall be held by the juſtices thereof, on the third Wedneſday in every month, inſtead of the day heretofore appointed by law. And that a court of quarterly ſeſſion, ſhall be held for the ſaid county, in the months of February, April, July, and October, in every year; any law to the contrary notwithſtanding.

December the 5th, 1796.

A QUARTERLY ſeſſion of the court of huſtings for the city of Williamſburg, ſhall hereafter, be held by the mayor, recorder, and aldermen thereof, in the month of June, in every year, inſtead of the month of May.

COUNTY LEVIES, POOR RATES, AND CLERKS FEES.

December the 19th, 1796—but commenced May 1, 1797.

§ I. THE duties required of the juſtices of the ſeveral county courts, by the ſeventh ſection of the act "Concerning tithables, directing the mode of laying and "collecting the county levy," ſhall be, and the ſame is hereby required to be done and performed, in the months of September or October, annually, or as ſoon after as may be, if no court ſhould be held in either of thoſe months, inſtead of the months of June or July, annually.

II. The ſheriff or county collector, ſhall account with, and ſatisfy the county creditors, on or before the firſt day of October in every ſucceeding year, after the levy ſhall be laid, under the ſame regulations and penalties, as is preſcribed by the ninth ſection of the act aforeſaid, any thing in any law to the contrary notwithſtanding.

III. The annual meeting of the overſeers of the poor in every county, ſhall be held on the firſt Monday in September, inſtead of the firſt Monday in March, in every year; but if the number required by law, ſhall not aſſemble on that day, it ſhall be lawful for a ſufficient number to meet and perform the buſineſs on any ſubſequent day in the ſaid month; obſerving in all other reſpects the regulations required by "An act providing for the poor, "and declaring who ſhall be deemed vagrants."

IV. Every ſheriff of every county, and every ſerjeant of every corporation, ſhall, on or before the firſt day of September, inſtead of the laſt day of May, in every year, account with the clerks of the reſpective diſtrict, high court of chancery, county and corporation courts, and the reſpective ſurveyors, for all fees put into his hands to collect, and pay the ſame, abating ſix per centum for collecting, purſuant to the "Act reducing into one, the "ſeveral acts concerning the fees of certain officers, and declaring the mods of diſcharging "the ſaid fees, and county levies."

V. The county levies, poor rates, the fees of the reſpective clerks of the diſtrict, high court of chancery, county and corporation courts, and the reſpective ſurveyors fees, ſhall be diſtrainable the firſt day of May in every year, inſtead of the time preſcribed by law.

VI. The judges of the ſeveral diſtrict courts, ſhall make ſuch allowance from time to time, to the reſpective clerks of the diſtrict courts, as they ſhall think reaſonable for future public ſervices, not heretofore provided for by law, which allowances when made and audited, ſhall be paid by the treaſurer, out of any public money in his hands, not otherwiſe appropriated.

COURT OF APPEALS.

November the 18th, 1796.

§ I. WHEREAS by the act, intituled, "An act, for reducing into one act, the "ſeveral acts concerning the court of appeals, and ſpecial court of appeals," it is, among other things, provided and enacted, that whenſoever a majority, or all the judges of the court of appeals, ſhall be intereſted in any caſe in the ſaid recited act, mentioned, the ſame ſhall be entered of record in the ſaid court, and the clerk thereof ſhall, thereupon, iſſue a ſummons to the judge of the high court of chancery, and judges of the general court, requiring them, if not diſqualified to ſit in ſuch caſe, to attend at the capitol in the city of Richmond, or in caſe of adjournment of the court of appeals to any other place, at ſuch other place, on the twentieth day of June, or November, then next following, to conſtitute a ſpecial court of appeals, for the purpoſe of hearing and finally deciding ſuch ſuit; but no proviſion is made for thoſe caſes, wherein it may happen, that the day, ſo to be appointed, ſhall happen to fall out upon a Sunday, which may be attended with great inconvenience:

II. Whenever a ſummons hath been, or ſhall be iſſued, purſuant to the ſaid recited act, for aſſembling a ſpecial court of appeals, if the day to which ſummons is, or ſhall be made returnable, ſhall happen to fall out of a Sunday, ſuch court ſhall be holden on the next ſucceeding day, in like manner as if the ſame had been the day named in the ſummons, and ſhall then proceed to hear, determine, and finally decide all ſuits, proceſs, matters and things, ſubmitted to their cognizance and juriſdiction, as if the ſame had been the twentieth day of the month, to which ſuch ſummons is, or ſhall be made returnable.

DESTRUCTION OF RECORDS. *See Records.*

DISTRICT COURTS.

December the 21ſt, 1796.

§ I. WHEREAS the time allowed for the ſitting of the diſtrict courts, holden in the towns of Frederickſburg, Dumfries, and Wincheſter, is not ſufficient for the tranſacting of the buſineſs in ſaid courts:

II. The ſaid courts reſpectively, ſhall ſit if buſineſs require it, fifteen days, Sundays excluſive, unleſs ſuch ſitting ſhall interfere with ſome other diſtrict court, in the ſame circuit; and to enable the judges to comply with this law, the diſtrict court holded at Dumfries, ſhall be held on the eighteenth day of May and October in every year; that the diſtrict court holden at Wincheſter, ſhall be held on the fifteenth day of April, and on the twenty-ninth day of September, in every year; and the diſtrict court holden at Morgan-Town, ſhall be held on the fifteenth day of May, and on the fifteenth day of September, in every year.

III. And if any of the ſaid ſeveral days be Sunday, the court ſhall in that caſe reſpectively, begin on the ſucceeding day.

IV. The diſtrict court holden at Brunſwick courthouſe, ſhall be held on the ſecond day of May, and the ſecond day of October, in every year, inſtead of the twenth-ninth of April, and the twenty-ninth day of September, in every year; and if either of the ſaid days be Sunday, the court ſhall in that caſe begin on the ſucceeding day. The diſtrict court holden at Peterſburg, ſhall ſit if buſineſs requires it, fifteen days, Sundays excluſive, unleſs ſuch ſitting ſhall interfere with ſome other diſtrict bourt in the ſame circuit.

FEES.

December the 20th, 1796.

§ I. IN addition to the fees now allowed by law to the clerks of courts within this commonwealth, they may demand and receive the following fees for the ſervices hereinafter mentioned:

When any deed of feoffment, or bargain and ſale, or other deed for conveying and ſettling lands and tenements only, or together with ſlaves and perſonal eſtate, ſhall be recorded; for every ſeparate and diſtinct tract, piece or parcel of land, other than the firſt therein contained, twenty-five cents.

The fees for recording deeds where the grantees reſide not within this ſtate, ſhall be ſecured to the clerk before he ſhall be obliged to enter the proof or acknowledgment of the ſame of record. And in all caſes, perſons inſtituting ſuits in the courts of this commonwealth, not reſident within the ſtate, requiring ſervices of the clerk of any court, ſhall ſecure the payment of the fees for ſuch ſervices, before the ſaid clerk ſhall be obliged to perform the ſame.

II. It ſhall be conſidered as the duty of the clerks of the ſeveral counties within this commonwealth, to enter of record the recommendations of officers proper to fill vacancies in the militia, and qualify them without any fee for the ſame.

III. All and every act or acts coming within the purview of this act, ſhall be and are hereby repealed.

FLOUR AND BREAD.

December the 22d, 1796—but commenced March 1, 1797.

§ I. AT each of the following places, to wit: Milton, in the county of Albemarle, the mouths of Harman's creek and Croſs creek, in the county of Ohio, one inſpection of flour ſhall be appointed in the ſame manner and under the like regulations as are directed and preſcribed by the act paſſed in the year one thouſand ſeven hundred and ninety-two, intituled, "An act reducing into one the ſeveral acts for regulating the inſpection of flour and bread."

II. If any miller or other perſon mannfacturing flour, ſhall mix therewith flour of any other grain than wheat, the whole of ſuch mixed flour ſhall be condemned by the inſpector, who ſhall cauſe the ſame to be ſold for the benefit of the commonwealth, after having given notice of the time and place of ſuch ſale for three weeks ſucceſſively in ſome public gazette. And the inſpector ſhall be allowed to retain as a commiſſion for his trouble therein, five per centum upon the money produced by the ſale of ſuch mixed flour. And it ſhall be the duty of the ſeveral inſpectors within this commonwealth, to account with the auditor and pay into the public treaſury half-yearly, the money ariſing from the ſale of ſuch condemned flour.

III. *Provided nevertheleſs*, That when any perſon ſhall think himſelf aggrieved by the judgment or want of ſkill in an inſpector in condemning flour on account of ſuch mixture, it ſhall be lawful for ſuch perſon to apply to a juſtice of the peace, who ſhall, at the charge of the complainant, iſſue a warrant directed to three indifferent perſons well ſkilled in the manufacture of flour, to view and examine the ſame; which ſaid three perſons having taken the ſame oath or affirmation as is by law directed to be taken by the ſeveral inſpectors of flour, ſhall carefully view and examine the ſame, and if they, or any two of them, ſhall paſs and declare the ſame to be merchantable, in ſuch caſe the inſpector ſhall eraſe out the word condemned, and put ſuch brand on the ſaid flour as they, or any two of them, ſhall di-

rect, and ſhall repay to the complainant his coſts; but if on ſuch review the judgment of the inſpector ſhall be confirmed, in ſuch caſe the owner of the flour ſhall pay the coſts of ſuch review.

IV. So much of the above recited act, as eſtabliſhes an inſpection of flour at Pocahuntas, ſhall be and the ſame is hereby repealed.

KEEPERS OF PUBLIC GAOLS. *See Priſons.*

LAND-OFFICE.

November the 18th, 1796.

§ I. SO much of the ſecond ſection of an act, intituled, "An act to amend the act, for reducing into one, the ſeveral acts concerning the land-office, aſcertaining the terms and manner of granting waſte and unappropriated lands, ſettling the titles and bounds of lands, directing the mode of proceſſioning, and preſcribing the duty of ſurveyors," as relates to ſurveys or locations of land, ſhall be conſtrued to extend only to ſuch ſurveys or locations, as have been, or ſhall be made, after the laſt day of December, one thouſand ſeven hundred and ninety-five. And the regiſter is hereby directed to proceed on all ſurveys, made prior to the firſt day of January, one thouſand ſeven hundred and ninety-ſix, agreeably to the laws in force at the time of ſuch ſurveys made.

II. Where it has happened that any court within this commonwealth, hath neglected to appoint proceſſioners at the courts heretofore appointed by law, that they have the further time of ſix months from the paſſing of this law, to make ſuch appointments, and that they be authoriſed to appoint proceſſioners at any court, within the ſaid period of ſix months.

III. The third ſection of the law aforeſaid, be, and the ſame is hereby repealed.

December the 13th, 1796.

§ I. THE further time of twelve months, to be computed from the thirty-firſt day of December next, ſhall be allowed the owners of ſurveys of lands on the weſtern waters, and the further time of twelve months, to be computed from the ſaid thirty-firſt day of December, to the owners of ſurveys of lands on the eaſtern waters, for returning all plats and certificates of ſurveys, to the regiſter of the land office, who ſhall receive the ſame; and all plats and certificates of ſurvey aforeſaid, not returned within the period aforeſaid, are hereby declared to be abſolutely null and void, and the lands included in ſaid ſurveys, ſubject to another location.

II. So much of this act, as relates to lands on the eaſtern waters, ſhall be ſo conſtrued, as only to authoriſe the regiſter of the land-office, to receive plats and certificates of ſurveys, made on locations under the commonwealth's land-warrants.

III. All entries made either on the eaſtern or weſtern waters, ſhall become abſolutely null and void, unleſs the ſame be ſurveyed within two years, to be computed from the firſt day of November laſt; and that all entries hereafter made, ſhall become void, unleſs ſurveyed within two years after their date, and the lands ſubject to another location.

MEETING OF ASSEMBLY. *See General Aſſembly.*

PENAL LAWS.

December the 15th, 1796.

§ I. NO crime whatſoever committed by any free perſon againſt this commonwealth, (except murder of the firſt degree) ſhall be puniſhed with death within the ſame.

II. And whereas, the ſeveral offences which are included under the general denomination of murder, differ ſo greatly from each other in the degree of their attrociousneſs, that it is unjuſt to involve them in the ſame puniſhment: All murder which ſhall be perpetrated by means of poiſon, or by lying in wait, or by any other kind of wilful, deliberate, and premeditated killing, or which ſhall be committed in the perpetration or attempt to perpetrate any arſon, rape, robbery or burglary, ſhall be deemed murder of the firſt degree; and all other kinds of murder ſhall be deemed murder of the ſecond degree, and the jury before whom any perſon indicted for murder ſhall be tried, ſhall, if they find ſuch perſon guilty thereof, aſcertain in their verdict whether it be murder, in the firſt or ſecond degree, but if ſuch perſon ſhall be convicted by confeſſion, the court ſhall proceed by examination of witneſſes, to determine the degree of the crime, and to give ſentence accordingly.

III. Every perſon liable to be proſecuted for petit treaſon, ſhall in future be indicted, proceeded againſt and puniſhed, as is directed in other kinds of murder.

IV. Every perſon duly convicted of the crime of high treaſon, ſhall be ſentenced to undergo a confinement in the jail and penitentiary houſe herein after mentioned, for a period not leſs than ſix, nor more than twelve years, and ſhall be kept therein at hard labour or in ſolitude, and ſhall in all things be treated and dealt with as is herein after directed. Every perſon duly convicted of the crime of arſon, or as being an acceſſory thereto, ſhall be ſentenced to undergo a ſimilar confinement for a period not leſs than five, nor more than twelve years, under the ſame conditions as are herein after directed. Every perſon duly convicted of the crime of rape, or as being acceſſory thereto before the fact, ſhall be ſentenced to undergo a ſimilar confinement, for a period of time not leſs than ten years, nor more than twenty-one years, under the ſame conditions as are herein after directed. Every perſon duly convicted of the crime of murder in the ſecond degree, ſhall be ſentenced to undergo a ſimilar confinement for a period not leſs than five years, nor more than eighteen years, under the ſame conditions as are herein after directed.

V. Every perſon convicted of robbery or burglary, or as acceſſory thereto before the fact, ſhall reſtore the thing robbed or taken, to the owner or owners thereof, or ſhall pay to him, her, or them, the full value thereof, and be ſentenced to undergo a ſimilar confinement, for a period not leſs than three, nor more than ten years, under the ſame conditions as are herein after directed.

VI. Every perſon convicted of horſe ſtealing, or as acceſſory thereto before the fact, ſhall reſtore the horſe, mare, or gelding ſtolen, to the owner or owners thereof, or ſhall pay to him, her, or them the full value thereof, and alſo undergo a ſimilar confinement, for a period not leſs than two, nor more than ſeven years, under the ſame conditions as are herein after directed. Every perſon convicted of ſimple larceny to the value of four dollars and upwards, or as acceſſory thereto before the fact, ſhall reſtore the goods or chattels ſo ſtolen to the right owner or owners thereof, or ſhall pay to him, her, or them the full value thereof, or ſo much thereof as ſhall not be reſtored; and moreover ſhall undergo a ſimilar confinement, for a period not leſs than one, nor more than three years, under the ſame conditions as are herein after directed.

VII. If any perſon ſhall felonioufly take, ſteal and carry away any goods or chattels under the value of four dollars, the ſame order and courſe of trial ſhall be had and obſerved as for other ſimple larcenies, and he, ſhe, or they, being thereof legally convicted, ſhall

be deemed guilty of petty larceny, and ſhall reſtore the goods and chattels ſo ſtolen, or pay the full value thereof to the owner or owners thereof, and be further ſentenced to undergo a ſimilar confinement, for a period not leſs than ſix months, nor more than one year, under the ſame conditions as are herein after expreſſed.

VIII. Robbery or larceny of obligations or bonds, bills obligatory, bills of exchange, promiſſory notes for the payment of money, lottery tickets, paper bills of credit, certificates granted by or under the authority of this commonwealth, or of the United States, or any of them, ſhall be puniſhed in the ſame manner as robbery or larceny of goods and chattels.

IX. Every perſon who ſhall be convicted of having falſely forged and counterfeited any gold or ſilver coin, which now is, or hereafter ſhall be paſſing or in circulation within this ſtate, or of having falſely uttered, paid or tendered in payment, any ſuch counterfeit and forged coin, knowing the ſame to be forged and counterfeit, or having aided, abetted, or commanded the perpetration of either of the ſaid crimes, or ſhall be concerned in printing, ſigning, or paſſing any counterfeit notes of the banks of Alexandria or the United States, knowing them to be ſuch, or altering any genuine notes of either of the ſaid banks, ſhall be ſentenced to undergo a confinement, in the jail and penitentiary houſe herein after mentioned, not leſs than four, nor more than fifteen years, and ſhall be kept, treated, and dealt with in manner herein after directed, and ſhall alſo pay ſuch fine as the court ſhall adjudge, not exceeding one thouſand dollars.

X. Whoſoever on purpoſe and of malice aforethought, by lying in wait, ſhall unlawfully cut out or diſable the tongue, put out an eye, ſlit the noſe, cut off the noſe, ear, or lip, or cut off or diſable any limb or member of another, with intention in ſo doing, to maim or diſfigure ſuch perſon, or ſhall voluntarily, maliciouſly, and of purpoſe, pull or put out an eye while fighting or otherwiſe, every ſuch offender, his or her aiders, abettor, and counſellors, ſhall be ſentenced to undergo a confinement in the ſaid jail and penitentiary houſe, for any time not leſs than two, nor more than ten years, and ſhall be kept, treated, and dealt with in manner herein after mentioned; and ſhall alſo pay a fine not exceeding one thouſand dollars, three fourths whereof ſhall be for the uſe of the party grieved.

XI. Whoſoever ſhall be convicted of any voluntary manſlaughter, ſhall be ſentenced to undergo an impriſonment, at hard labour and ſolitary confinement in the ſaid jail and penitentiary houſe, for any time not leſs than two, nor more than ten years, and to give ſecurity for his or her good behaviour during life, or for any leſs time, according to the nature and enormity of the offence; and for the ſecond offence, ſhall be ſentenced to undergo an impriſonment at hard labour and ſolitary confinement in the ſaid jail and penitentiary houſe, for any time not leſs than ſix, nor more than fourteen years.

XII. Whereſoever any perſon ſhall be charged with involuntary manſlaughter, happening in conſequence of an unlawful act, it ſhall and may be lawful for the attorney general, or other perſon proſecuting the pleas of the commonwealth, with the leave of the court, to wave the felony, and to proceed againſt and charge ſuch perſon with a miſdemeanor, and to give in evidence any act or acts of manſlaughter, and ſuch perſon or perſons, on conviction ſhall be fined or impriſoned as in caſes of miſdemeanor; or the ſaid attorney general, or other perſon proſecuting the pleas of the commonwealth, may charge both offences in the ſame indictment, in which caſe, the jury may acquit the party of one, and find him or her guilty of the other charge.

XIII. All claims to diſpenſation from puniſhment by benefit of clergy, ſhall be and are hereby forever aboliſhed; and every perſon convicted of any felony heretofore deemed clergyable, ſhall undergo an impriſonment at hard labour and ſolitary confinement in the ſaid jail and penitentiary houſe, for any time not leſs leſs than ſix months, and not more than two years, and ſhall be treated and dealt with as is directed hereafter, except in thoſe caſes where ſome other ſpecific penalty is preſcribed by this act.

XIV. Every perſon convicted of murder of the firſt degree, his or her aiders, abettors and counſellors, ſhall ſuffer death by hanging by the neck.

XV. The jury before whom any offender may be tried, ſhall decide upon, and in their verdict aſcertain the time within the reſpective periods preſcribed, during which ſuch offenders ſhall undergo confinement in the jail and penitentiary houſe herein after mentioned, according to the directions of this act.

XVI. Every other felony, miſdemeanor or offence whatſoever, not provided for by this act, may and ſhall be puniſhed as heretofore.

XVII. The executive of this commonwealth are hereby requeſted as ſoon as may be, to cauſe as much land in or near the city of Richmond, to be purchaſed for the uſe of the commonwealth, as will be ſufficient for the building of a jail and penitentiary houſe, which ſhall be conſtructed of brick or ſtone, upon ſuch plan, as will beſt prevent danger from fire, and ſufficient to contain with convenience, two hundred convicts at leaſt, with a yard ſufficiently capacious adjoining thereto for the ſaid convicts occaſionally to walk about and labour in, which ſaid yard ſhall be ſurrounded by walls of ſuch height as without unneceſſary excluſion of air, will be ſufficient to prevent the eſcape of the priſoners.

XVIII. The executive are hereby alſo requeſted to cauſe a ſuitable number of cells to be conſtructed in the yard of the ſaid jail, each of which cells ſhall be ſix feet in width, eight feet in length, and nine feet in height, and ſhall be conſtructed of brick or ſtone, upon ſuch plan as will beſt prevent danger from fire, and the ſaid cells ſhall be ſeparated from the common yard, by walls of ſuch height, as without unneceſſary excluſion of air and light, will prevent all external communication, for the purpoſe of confining therein the offenders who may be ſentenced to ſolitary confinement by virtue of this act.

XIX. And for the purpoſe of defraying the expence of purchaſing ſuch land, and of erecting ſuch jail, cells and walls, the governor by and with the advice of council, ſhall be, and is hereby authoriſed from time to time to draw from the treaſury, a ſum not exceeding thirty thouſand dollars, to be paid out of any monies which may be in the treaſury unappropriated to other purpoſes, and ſhall from time to time cauſe to be laid before the general aſſembly, an account of the expenditure of the ſame.

XX. The ſaid jail and cells ſhall be appropriated to the purpoſe of confining ſuch males and females as ſhall have been convicted of the offences above enumerated as puniſhable with impriſonment and labour, but the males and females are hereby required to be kept ſeparate and apart from each other; and all the priſoners ſhall be ſubject to the viſitation and ſuperintendance of the inſpectors herein after appointed.

XXI. Every perſon convicted in any diſtrict court in this ſtate, of any crime (except murder of the firſt degree) herein before ſpecified, ſhall, as ſoon as poſſible after conviction, be ſafely removed and conveyed by the ſheriff of the county or ſerjeant of the corporation in which the crime or offence ſhall have been committed, and at the expence of the commonwealth, to the ſaid jail and penitentiary houſe, and therein be kept during the term of their confinement, in the manner and on the terms herein after mentioned. And every ſheriff or ſerjeant who ſhall neglect to remove and ſafely deliver at the jail aforeſaid ſuch convict, ſhall forfeit and pay the ſum of one hundred dollars, to be recovered in any court of record, and applied, one half to the uſe of the county or corporation where the offence was committed, the other to ſuch perſon as ſhall ſue for the ſame.

XXII. Every perſon convicted of any of the crimes aforeſaid, and who ſhall be confined in the jail and penitentiary houſe aforeſaid, ſhall be placed and kept in the ſolitary cells thereof, on low and coarſe diet, for ſuch part or portion of the term of his or her impriſonment as the court in their ſentence ſhall direct and appoint: *Provided*, That it be not more than one half, nor leſs than one twelfth part thereof; and that the inſpectors of

the ſaid jail ſhall have power to direct the infliction of the ſaid ſolitary confinement, at ſuch intervals and in ſuch manner as they ſhall judge beſt.

XXIII. And whereas it is of importance that the nature of the offence, and the former conduct and character of the convicts ſhould be known by the ſaid inſpectors: Whenſoever any perſon ſhall be convicted of any crime which now is capital, or a felony of death, the court before whom ſuch conviction is had, ſhall before their adjournment to another term, make and cauſe to be tranſmitted to the ſaid inſpectors a report, or ſhort account of the circumſtances attending the crime committed by ſuch convict, particularly ſuch as tend to aggravate or extenuate the ſame, and alſo what character the ſaid convict appeared on the trial to ſuſtain, and whether he had at any time before been convicted of any felony or other infamous crime; which report the ſaid inſpectors ſhall cauſe to be entered in books or regiſters to be provided for that purpoſe.

XXIV. If any perſon convicted of any crime, which now is capital, or a felony of death without benefit of clergy, ſhall commit any ſuch offence a ſecond time, and be thereof legally convicted; he or ſhe ſhall be ſentenced to undergo an impriſonment in the ſaid jail and penitentiary houſe, at hard labour, during life, and ſhall be confined in the ſaid ſolitary cells at ſuch times and in ſuch manner as the inſpectors ſhall direct; and if any perſon ſentenced to hard labour and ſolitary confinement by virtue of this act, ſhall eſcape or be pardoned, and after his or her eſcape or pardon ſhall be guilty of any ſuch offence as now is capital, or felony of death without benefit of clergy, ſuch perſon ſhall be ſentenced to undergo an impriſonment for the term of twenty-five years, and ſhall be confined in the ſolitary cells aforeſaid, at the diſcretion of the ſaid inſpectors.

XXV. If any perſon after this act ſhall, by proclamation of the governor as herein after mentioned, be declared in force, be convicted of any crime, committed before the ſaid day, he or ſhe ſhall be ſentenced to undergo ſuch pains and puniſhment, as by the laws now in force, are preſcribed and directed, unleſs ſuch convict ſhall openly pray the court before whom ſuch conviction ſhall be had, that ſentence may be pronounced agreeably to the proviſions of this act, for the like offence; in which caſe the ſaid court ſhall comply with the ſaid prayer, and paſs ſuch ſentence on ſuch convict as they would have paſſed, had the ſaid offence been committed ſubſequent to the ſaid day.

XXVI. No perſon indicted for any crime, the puniſhment whereof is altered by this act, ſhall loſe any peremptory challenge, to which he or ſhe would have been entitled, had this act not been paſſed; nor be liable to be tried in any other courts than thoſe in which they now are or may be tried for the ſame offences.

XXVII. In order to prevent the introduction of contagious diſorders, every perſon who ſhall be ordered to hard labour in the ſaid jail, ſhall be ſeparately lodged, waſhed and cleaned; and ſhall continue in ſuch ſeparate lodging, until it ſhall be certified by ſome phyſician, that he or ſhe is fit to be received among the other priſoners, and the clothes in which ſuch perſon ſhall then be cloathed, ſhall either be burnt, or at the diſcretion of two of the ſaid inſpectors, be baked, fumigated, or carefully laid by until the expiration of the term for which ſuch offender ſhall be ſentenced to hard labour, to be then returned to him or her.

XXVIII. All ſuch convicts ſhall, at the public expence, during the term of their confinement, be cloathed in habits of coarſe materials, uniform in colour and make, and diſtinguiſhing them from the good citizens of this commonwealth; and the males ſhall have their heads and beards cloſe ſhaven at leaſt once in every week, and all ſuch offenders ſhall, during the ſaid term, be ſuſtained upon bread, Indian meal, or other inferior food, at the diſcretion of the ſaid inſpectors, and ſhall be allowed two meals of coarſe meat in each week, and ſhall be kept, as far as may be conſiſtent with their ſex, age, health and ability, to labour of the hardeſt and moſt ſervile kind, in which the work is leaſt liable to be ſpoiled by ignorance, neglect or obſtinacy, and where the materials are not eaſily embezzled, or

deſtroyed; and if the work to be performed is of ſuch a nature as may require previous inſtruction, proper perſons for that purpoſe, to whom a ſuitable allowance ſhall be made, ſhall be provided by order of any two of the inſpectors hereafter named; during which labour the ſaid offenders ſhall be kept ſeparate and apart from each other, if the nature of their ſeveral employments will admit thereof, and where the nature of ſuch employment requires two or more to work together, the keeper of the ſaid jail, or one of his deputies, ſhall, if poſſible, be conſtantly preſent.

XXIX. Such offenders unleſs prevented by ill health, ſhall be employed in work every day in the year, except Sundays, and ſuch days when they ſhall be confined in the ſolitary cells; and the hours of work in each day, ſhall be as many as the ſeaſon of the year, with an interval of half an hour for breakfaſt, and an hour for dinner, will permit, but not exceeding eight hours in the months of November, December and January; nine hours in the months of February and October, and ten hours in the reſt of the year; and when ſuch hours of work are paſt, the working tools, implements and materials, or ſuch of them as will admit of daily removal, ſhall be removed to places proper for their ſafe cuſtody, until the hour of labour ſhall return.

XXX. The keeper of the ſaid jail ſhall from time to time, with the approbation of any two of the inſpectors herein after mentioned, provide a ſufficient quantity of ſtock and materials, working tools and implements for ſuch offenders, for the expence of which the ſaid inſpectors, or any two of them, ſhall be, and they are hereby authoriſed to draw orders, to be counterſigned by the auditor of public accounts, on the treaſurer of this commonwealth, if need ſhall be, ſpecifying in ſuch orders the quantity and nature of the materials, tools, or implements wanted, which order the ſaid treaſurer is hereby required to diſcharge out of any money which may be at the time in the treaſury: for which materials, tools and implements, when received, the ſaid keeper ſhall be accountable; and the ſaid keeper ſhall, with the approbation of any two of the ſaid inſpectors, have power to make contracts with any perſon whatever, for the cloathing, diet, and all other neceſſaries for the maintenance and ſupport of ſuch convicts, and for the implements and materials of any kind of manufacture, trade or labour, in which ſuch convicts ſhall be employed, and for the ſale of ſuch goods, wares and merchandizes as ſhall be there wrought and manufactured: and the ſaid keeper ſhall cauſe all accounts concerning the maintenance of ſuch convicts and other priſoners to be entered regularly in a book or books to be kept for that purpoſe, and ſhall alſo keep ſeparate accounts of the ſtock and materials ſo wrought, manufactured, ſold and diſpoſed of, and the monies for which the ſame ſhall be ſold, and when ſold, and to whom, in books to be provided for thoſe purpoſes; all which books and accounts ſhall be at all times open for the examination of the ſaid inſpectors, and ſhall be regularly laid before them at their quarterly or other meetings, as herein after is directed, for their approbation and allowance.

XXXI. If the ſaid inſpectors at their quarterly or other meetings, ſhall ſuſpect any fraudulent or improper charges, or any omiſſion in any ſuch accounts, they may examine upon oath or affirmation the ſaid keeper or any of his deputies, ſervants or aſſiſtants, or any perſon of whom any neceſſaries, ſtock, materials or other things have been purchaſed for the uſe of the ſaid jail, or any perſons to whom any ſtock or materials wrought or manufactured therein have been ſold, or any of the offenders confined in ſuch jail, or any other perſon or perſons concerning any of the articles contained in ſuch accounts, or any omiſſion thereout, and in caſe any fraud ſhall appear in ſuch accounts, the particulars thereof ſhall be reported by the ſaid inſpectors to the mayor of the city of Richmond, for the purpoſes herein after mentioned.

XXXII. In order to encourage induſtry as an evidence of reformation, ſeparate accounts ſhall be opened in the ſaid books for all convicts ſentenced to hard labour for ſix months and upwards, in which ſuch convicts ſhall be charged with the expences of cloath-

ing and ſubſiſtance, and ſuch proportionable part of the expences of the raw materials upon which they ſhall be employed, as the inſpectors, at their quarterly or other meetings, ſhall think juſt, and ſhall be credited with the ſum or ſums from time to time received by reaſon of their labour, and if the ſame ſhall be found to exceed the ſaid expences, the ſaid exceſs ſhall be laid out in decent raiment for ſuch convicts at their diſcharge, or otherwiſe applied to their uſe and benefit, as the ſaid inſpectors ſhall upon ſuch occaſions direct; and if ſuch offender at the end or other determination of his term of confinement, ſhall labour under any acute or dangerous diſtemper, he ſhall not be diſcharged unleſs at his own requeſt, until he can be ſafely diſcharged.

XXXIII. No perſon whatever, except the keeper, his deputies, ſervants, or aſſiſtants, the ſaid inſpectors, officers and miniſters of juſtice, mineſters of the goſpel, or perſons producing a written licenſe, ſigned by two of the ſaid inſpectors, ſhall be permitted to enter within the walls where ſuch offenders ſhall be confined: and the doors of all the lodging rooms and cells in the ſaid jail ſhall be locked, and all light therein extinguiſhed at the hour of nine, and one or more watchmen ſhall patrole the ſaid jail at leaſt twice in every hour from that time until the return of the time of labour in the morning of the next day.

XXXIV. The walls of the cells and apartments in the ſaid jail ſhall be whitewaſhed with lime and water at leaſt twice in every year, and the floors of the ſaid cells and apartments ſhall be waſhed once every week, or ottener, if the ſaid inſpectors ſhall ſo direct, by one or more of the ſaid priſoners in rotation, who at the diſcretion of the ſaid keeper, ſhall have an extra allowance of diet for ſo doing; and the ſaid priſoners ſhall be allowed to walk and air themſelves for ſuch ſtated time as their health may require, and the ſaid keeper ſhall permit; and if proper employment can be found, ſuch priſoners may alſo be permitted with the approbation of two of the ſaid inſpectors to work in the yard, provided ſuch airing and working in the yard be in the preſence or within the view of the ſaid keeper, or his deputies or aſſiſtants.

XXXV. One or more of the apartments in the ſecond ſtory, of the ſaid jail, and at the extreme end of the weſt wing, ſhall be fitted up as an infirmary, and in caſe any ſuch offender being ſick, ſhall upon examination of a phyſician be found to require it, he or ſhe ſhall be removed to the infirmary, and his or her name ſhall be entered in a book to be kept for that purpoſe, and when ſuch phyſician ſhall report to the ſaid keeper that ſuch offender is in a proper condition to quit the infirmary and return to his or her employment, ſuch report ſhall be entered by the ſaid keeper in a book to be kept for that purpoſe, and the ſaid keeper ſhall order him or her back to his or her former labour, ſo far as the ſame ſhall be conſiſtent with his or her ſtate of health; and the mayor and aldermen of the city of Richmond ſhall from time to time appoint a phyſician to attend the ſaid jail.

XXXVI. The keeper of the ſaid jail ſhall have power to puniſh all ſuch priſoners guilty of aſſaults within the ſaid jail, when no dangerous wound or bruiſe is given, profane curſing and ſwearing, or indecent behaviour, idleneſs or negligence in work, or wilful miſmanagement of it, or of diſobedience to the orders or regulations herein after directed to be made, by confining ſuch offenders in the ſolitary cells of the ſaid jail, and by keeping them upon bread and water only for any term not exceeding two days; and if any ſuch priſoner ſhall be guilty of any offence within the ſaid jail which the ſaid keeper is not hereby authoriſed to puniſh, or for which he ſhall think the ſaid puniſhment is not ſufficient, by reaſon of the enormity of the offence, he ſhall report the ſame to two of the ſaid inſpectors, who, if upon proper enquiry they ſhall think fit, ſhall certify the nature and circumſtances of ſuch offence, with the name of the offender to the mayor of the city of Richmond, and the mayor ſhall thereupon, order ſuch offences to be puniſhed by moderate whipping, or repeated whippings, not exceeding thirteen laſhes each, or by cloſe confinement in the ſaid ſolitary cells, with bread and water only for ſuſtenance, for any time not exceeding ſix days, or by all the ſaid puniſhments.

XXXVII. It ſhall be lawful for the governor with the advice of council, to appoint a ſuitable perſon to be keeper of the ſaid jail, who ſhall however be liable to be removed whenever occaſion may require, in which caſe another ſhall, from time to time be appointed in like manner, who ſhall receive as a full compenſation for his ſervices, and in lieu of all fees and gratuities, by reaſon or under color of the ſaid office, ſo much as the governor with the advice of council, at the time ſuch appointment ſhall be made, ſhall direct, to be paid in quarterly payments, by orders drawn on the treaſury of this commonwealth by the auditor of public accounts, and alſo five per centum on the ſales of all articles manufactured by the ſaid criminals; and ſuch keeper ſhall have power with the approbation of the governor and council, to appoint a ſuitable number of deputies and aſſiſtants, at ſuch reaſonable allowances as the governor with the advice of council, ſhall think juſt, which allowances ſhall be paid quarterly in like manner; and before any ſuch jailor ſhall exerciſe any part of the ſaid office, he ſhall give bond to the governor of the comonwealth, with two ſufficient ſureties, to be approved by the court of the city of Richmond, in the ſum of two thouſand dollars, upon condition that he, his deputies and aſſiſtants, ſhall well and faithfully perform the truſts and duties in them repoſed; which ſaid bond, being executed before, and certified by the ſaid court, ſhall be recorded therein, and copies thereof, atteſted by the clerk of the ſaid court, ſhall be legal evidence in all courts of law in any ſuit againſt ſuch jailor or his deputies.

XXXVIII. It ſhall be lawful for the ſaid court of the city of Richmond at the firſt court after the time when the ſaid jail ſhall be erected agreeably to the directions of this act, to appoint twelve inſpectors, ſix of whom ſhall be in office for ſix months, and ſix for twelve months, and ſo during every ſucceeding ſix months, ſix inſpectors ſhall be appointed by the ſaid court, who ſhall be in office for twelve months; and if any perſon ſo appointed, not having a reaſonable excuſe, to be approved of by the ſaid court, ſhall refuſe to ſerve in the ſaid office, he ſhall forfeit and pay the ſum of thirty dollars; to be recovered by action of debt, the one half to the uſe of the perſon ſuing, the other half to be paid to the treaſurer of this commonwealth; to be applied to the purpoſes herein before mentioned.

XXXIX. The ſaid inſpectors, ſeven of whom ſhall be a quorum, ſhall meet once in three months in an apartment to be provided for that purpoſe in the ſaid jail, and may be ſpecially convened by the two acting inſpectors when occaſion ſhall require; and they ſhall at their firſt meeting appoint two of their members to be acting inſpectors, who ſhall continue ſuch for ſuch time as ſhall be directed by the ſaid inſpectors, or a majority of them, when met together. And the acting inſpectors ſhall attend the ſaid jail at leaſt once in each week, and ſhall examine into and inſpect the management of the ſaid jail and the conduct of the ſaid keeper and his deputies, ſo far as reſpects the ſaid offenders employed at hard labour by the directions of this act, and ſhall do and perform the ſeveral matters and things herein before directed by them to be performed.

XL. The board of inſpectors at their quarterly or other meeting, ſhall make ſuch other and further orders and regulations for the purpoſe of carrying this act into execution as ſhall be approved of by the executive; and ſuch orders and regulations ſhall be hung up in at leaſt ſix of the moſt conſpicuous places in the ſaid jail; and if the ſaid keeper or any of his deputies or aſſiſtants ſhall obſtruct or reſiſt the ſaid inſpectors or any of them in the exerciſe of the powers and duties veſted in them by this act, ſuch perſon ſhall forfeit and pay the ſum of ſixty dollars, to be recovered as aforeſaid, and ſhall moreover be liable to be removed in manner aforeſaid from his reſpective office or employment in the ſaid jail.

XLI. The ſaid keeper of the jail, his deputies and aſſiſtants, in caſe any of the ſaid offenders ſhall eſcape from confinement without the knowledge or conſent of the ſaid keeper, his deputies or aſſiſtants, ſhall forfeit and pay the ſum of thirty dollars, to be recovered and

applied in manner aforeſaid: *Provided*, that nothing in this act contained ſhall be deemed or taken to extend to eſcapes voluntarily ſuffered by the keeper of the ſaid jail.

XLII. If any ſuch offender ſentenced to hard labour ſhall eſcape, he or ſhe ſhall on conviction thereof, ſuffer ſuch additional confinement and hard labour, agreeably to the directions of this act, and ſhall alſo ſuffer ſuch additional corporal puniſhment, not extending to life or limb, as the court in which ſuch offender ſhall have been convicted, ſhall adjudge and direct.

XLIII. If the jailor or any other perſon, ſhall introduce into, or give away, barter, or ſell within the ſaid jail any ſpirituous or fermented liquors, except only ſuch as the ſaid keeper ſhall make uſe of in his own family, or ſuch as may be required for any priſoner in a ſtate of ill health, and for ſuch purpoſe preſcribed by an attending phyſician, and delivered into the hands of ſuch phyſician or other perſon appointed to receive them, ſuch perſon ſhall forfeit and pay the ſum of twenty dollars, one moiety thereof to the uſe of the perſon ſuing, the other moiety to be paid to the ſaid inſpectors for the purpoſes in this act contained.

XLIV. All acts and parts of acts coming within the purview of this act, ſhall, on the operation of this act, be thereby repealed.

XLV. So much of this act as reſpects the purchaſe of land, and building thereon the abovementioned jail and cells, ſhall commence and be in force from the paſſing thereof. The other parts thereof ſhall remain ſuſpended in their operation until the governor by advice of council, ſhall iſſue his proclamation declaring the ſaid jail to be in a ſituation fit to receive offenders, when the ſaid other parts of this act ſhall commence and be in operation.

POOR RATES. *See County Levies, Poor Rates, and Clerks Fees.*

PRISONS.

December the 20th, 1796.

§ I. THE allowance at preſent made by law to the keepers of diſtrict, and county jails, for keeping and dieting perſons committed to their cuſtody, being, during the preſent price of proviſions, unreaſonably low:

II. The ſeveral diſtrict courts, ſhall be, and they are hereby empowered at each ſeſſion, to order and direct ſuch allowance to be made for the priſoners confined in the jail of ſuch diſtrict, with whoſe ſupport the commonwealth is by law chargeable, and to the keeper of ſuch jail for his trouble, as to ſuch court ſhall ſeem reaſonable, provided the allowance ſo made, ſhall not exceed thirty four cents per day, for each priſoner. The allowance made, ſhall be certified to the auditor after each ſeſſion of the court, who ſhall debit the ſame, and iſſue a warrant on the treaſurer, therefor.

III. The keepers of county and corporation jails, ſhall be allowed for keeping and dieting each priſoner in their cuſtody, with whoſe ſupport the commonwealth is by law chargeable, ſo much as the courts of their reſpective counties and corporations ſhall judge reaſonable, provided the allowance ſo made, ſhall not exceed that made by the court for the diſtrict, in which the county or corporation lies. The allowance ſhall be made after each ſeſſion of the court for the diſtrict, and ſhall be certified to the auditor, who ſhall in like manner debit the ſame, and iſſue his warrant on the treaſurer, for the payment thereof.

IV. Wherever a creditor ſhall be liable to the jailor for priſon fees, on account of his debtor, it ſhall be lawful for ſuch jailor to charge the ſame fees, as may under this act be charged againſt the commonwealth.

V. And whereas, it is repreſented that in ſome inſtances, the court ſitting next after the performance of the ſervice, has failed to certify the allowance to which the keeper of the jail for the diſtrict, was by law entitled, and a ſubſequent court has doubted its authority to make the allowance and grant the certificate: In any ſuch caſe, a ſubſequent court, ſhall, and may proceed in like manner as the court next immediately ſucceeding the rendition of the ſervice, might by law have proceeded.

PUBLIC GAOLS. See Priſons.

PUBLIC ROADS.

December the 10th, 1796—but commenced March 1, 1797.

§ I. THE clerk of every county court, ſhall within ten days after the appointment of any ſurveyor of a road, deliver a copy of the order of his appointment to the ſheriff of the county, under the penalty of five dollars, and the ſheriff ſhall before the next court to be held for the ſaid county, after the receipt of ſuch order, deliver a copy thereof to the ſurveyor, if to be found within the county, and return the original to the clerk's office, with an endorſement thereon, ſtating the truth of the caſe, under the penalty of five dollars, which in all caſes ſhall be concluſive evidence of ſuch ſurveyor having notice of his appointment.

II. The fines and penalties hereby impoſed, ſhall be recoverable and appropriated in like manner, as the fines and penalties impoſed under the act, intituled, "An act concerning public roads."

III. So much of an act "Concerning public roads," as comes within the purview of this act, ſhall be, and the ſame is hereby repealed.

PUBLIC SCHOOLS.

December the 22d, 1796—but commenced Jan. 1, 1797.

§ I. WHEREAS it appeareth that the great advantages, which civilized and poliſhed nations enjoy, beyond the ſavage and barbarous nations of the world, are principally derived from the invention and uſe of letters, by means whereof the knowledge and experience of paſt ages are recorded and tranſmitted, ſo that man, availing himſelf in ſucceſſion of the accumulated wiſdom and diſcoveries of his predeceſſors, is enabled more ſucceſsfully to purſue and improve not only thoſe acts, which contribute to the ſupport, convenience and ornament of life, but thoſe alſo, which tend to illumine and ennoble his underſtanding, and his nature:

II. And whereas, upon a review of the hiſtory of mankind, it ſeemeth that however favorable republican government, founded on the principles of equal liberty, juſtice and order, may be to human happineſs, no real ſtability, or laſting permanency thereof can be rationally hoped for, if the minds of the citizens be not rendered liberal and humane, and be not fully impreſſed with the importance of thoſe principles from whence theſe bleſſings proceed: With a view therefore, to lay the firſt foundations of a ſyſtem of education, which may tend to produce thoſe deſireable purpoſes:

III. In every county within this commonwealth, there ſhall be choſen annually, by the electors qualified to vote for delegates, three of the moſt honeſt and able men of their county, to be called the aldermen of the county, and that the election of the ſaid aldermen

ſhall be held at the ſame time and place, before the ſame perſons, and notified and conducted in the ſame manner as by law is directed for the annual election of delegates for the county.

IV. The perſon before whom ſuch election is holden, ſhall certify to the court of the ſaid county, the names of the aldermen choſen, in order that the ſame may be entered of record, and ſhall give notice of their election to the ſaid aldermen within ten days after ſuch election.

V. The ſaid aldermen, or any two of them, annually, on the ſecond Monday in May, if it be fair, and if not, then on the next fair day, excluding Sunday, ſhall meet at the court houſe of their county, and ſhall then and there proceed to conſider the expediency of carrying the ſubſequent parts and proviſions of this preſent act into execution, within their counties reſpectively, having regard to the ſtate of the population within the ſame. And if it ſhall ſeem expedient to the ſaid aldermen in any year, to carry into effect the ſubſequent parts and proviſions of this act, the ſaid aldermen are hereby empowered and required to proceed to divide their ſaid county into ſections, regulating the ſize of the ſaid ſections, according to the beſt of their diſcretion, ſo as that they may contain a convenient number of children to make up a ſchool, and be of ſuch convenient ſize that all the children within each ſection may daily attend the ſchool to be eſtabliſhed therein, diſtinguiſhing each ſection by a particular name; which diviſion with the names of the ſeveral ſections ſhall be returned to the court of the county, and be entered of record, and ſhall remain unaltered, until the increaſe or decreaſe of inhabitants ſhall render an alteration neceſſary, in the opinion of any ſucceeding aldermen, and alſo in the opinion of the court of the county.

VI. The houſe holders reſiding within every ſection, ſhall meet on the firſt Monday in September next, after the aldermen of their county ſhall have determined that it is expedient that the proviſions of this act ſhall be carried into execution within the ſame, at ſuch place within their ſection as the ſaid aldermen ſhall direct, notice thereof being previouſly given to them by ſuch perſon reſiding within the ſection, as the ſaid aldermen ſhall require, who is hereby enjoined to obey ſuch requiſition, on pain of being puniſhed by amercement. The houſeholders being ſo aſſembled, ſhall chooſe the moſt convenient place within their ſection, for building a ſchool-houſe. If two or more places, having a greater number of votes than others, ſhall yet be equal between themſelves, the aldermen, or ſuch of them as are not of the ſame ſection, on information thereof, ſhall decide between them. The ſaid aldermen ſhall forthwith proceed to have a ſchool-houſe built at the ſaid place, and ſhall ſee that the ſame be kept in repair, and when neceſſary, that it be rebuilt; but whenever they ſhall think it neceſſary that it be rebuilt, they ſhall give notice as before directed, to the houſeholders of the ſection, to meet at the ſaid ſchool-houſe, on ſuch day as they ſhall appoint, to determine by vote in the manner before directed, whether it ſhall be rebuilt at the ſame, or what other place in the ſection.

VII. The power and authority of the aldermen elected under this act, who ſhall firſt determine in each county reſpectively, that it is expedient to carry this act into execution, ſhall continue until the aldermen who may be elected at an enſuing election, ſhall have actually formed a meeting, and ſo on in every enſuing year; and if the place of any of the ſaid aldermen ſhall become vacant by death, reſignation, or removal out of the county during the period for which he or they may be elected, ſuch vacancy or vacancies ſhall be ſupplied by other fit perſons by the court of the county for the remainder of the ſaid period.

VIII. At every of theſe ſchools ſhall be taught reading, writing, and common arithmetic; and all the free children, male and female, reſident within the reſpective ſections, ſhall be entitled to receive tuition gratis, for the term of three years, and as much longer at their private expenſe, as their parents, guardians, or friends, ſhall think proper. The ſaid aldermen ſhall from time to time appoint a teacher to each ſchool, and ſhall remove him as

they ſee cauſe. They or ſome one of them, ſhall viſit every ſchool once in every half year, at the leaſt, examine the ſcholars, and ſuperintend the conduct of the teacher in every thing relative to his ſchool.

IX. The ſalary of the teacher with the expence of building and repairing a ſchool-houſe in each ſection ſhall be defrayed by the inhabitants of each county in proportion to the amount of their public aſſeſſments and county levies, to be aſcertained by the aldermen of each county reſpectively, and ſhall be collected by the ſheriff of each county, in the ſame manner as other public taxes are collected, and paid to the aldermen of each county, at the time appointed for the payment of county levies by the ſheriffs; and in caſe any ſheriff ſhall fail to make payment, the aldermen of his county ſhall and may recover ſuch aſſeſſment from him in the ſame manner as county creditors are authoriſed by law to recover from him.

X. The mayor, aldermen, and common council of the ſeveral boroughs and corporations, within this commonwealth, ſhall have power by a bye-law or regulation, to adopt and carry into effect within their reſpective corporations, the principles and proviſions of this act, in ſuch manner as to them may ſeem moſt expedient, diſtinct from the counties within which ſuch corporation may be comprehended.

XI. *Provided always*, That the court of each county, at which a majority of the acting magiſtrates thereof ſhall be preſent, ſhall firſt determine the year in which the firſt election of ſaid aldermen ſhall be made, and until they ſo determine no ſuch election ſhall be made. And the court of each county ſhall annually, until each election be made at their court in the month of March, take this ſubject into conſideration and decide thereon.

RECOMMENDATIONS OF OFFICERS. *See Fees.*

RECORDS.

December the 20th, 1796.

§ I. ALL depoſitions which now are, or hereafter may be taken by virtue of an act, intituled, "An act for the relief of perſons who have been, or may be injured, "by the deſtruction of the records of county courts," ſhall be lodged with the clerk of the county in which ſuch accident may have happened, or ſhall hereafter happen, there to remain as evidence in all caſes for eſtabliſhing the right of the perſon or perſons injured, when better evidence cannot be obtained.

II. Where any perſon or perſons ſhall have ſuffered, or may ſuffer by the deſtruction of records, or other papers, in diſtrict or corporation courts, the ſame relief ſhall extend to ſuch perſon or perſons as is given by this, and the above recited act, to ſufferers by the deſtruction of records or other papers in counties.

III. So much of the above recited act, as comes within the purview of this act, ſhall be, and the ſame is hereby repealed.

SALARIES.

November the 20th, 1796—but commenced Jan. 1, 1797.

§ I THE ſeveral officers herein after mentioned, ſhall receive for their ſalaries, in quarterly payments, after the ſame ſhall have been audited according to law; the governor of the commonwealth, the ſum of three thouſand three hundred and thirty-

three dollars, and thirty-four cents, per annum; the judges of the court of appeals, and the judges of the general court, each, the ſum of fifteen hundred dollars, per annum; the auditor of public accounts, the ſum of twelve hundred and fifty dollars, per annum; the regiſter of the land office, twelve hundred and fifty dollars, per annum; the treaſurer, the ſum of two thouſand dollars, per annum; the firſt clerk of the treaſurer, regiſter, and auditor, the ſum of ſix hundred and twenty-five dollars, per annum, each; and each of the other clerks of the treaſury, and auditor, the ſum of four hundred and ſixteen dollars, and ſixty-ſeven cents, per annum; the clerk of the council, ſix hundred and twenty-five dollars, per annum; and the aſſiſtant clerk of the council, four hundred and ſixteen dollars, and ſixty-ſeven cents, per annum. All which ſeveral ſums ſhall be paid in ſpecie, and the auditor is hereby authoriſed to audit the ſame, and iſſue his warrants upon the treaſury accordingly.

II. The act, intituled, "An act, allowing travelling expences to the judges of the "generel court," ſhall be, and is hereby repealed.

III. All and every act, or acts, clauſes, and parts of acts, coming witin the purview of this act, ſhall be, and the ſame are hereby repealed.

SCHOOLS. See Public Schools.

SHERIFFS.

December the 23d, 1796.

§ I. THE fourth ſection of the act paſſed at the laſt ſeſſion of the general aſſembly, intituled, "An act to amend the act, to reduce into one, all the acts and parts "of acts relating to the appointment and duties of ſheriffs," ſhall be, and the ſame is hereby repealed.

II. All ſheriffs now in office or who hall hereafter come into office, and ſhall on or before the time appointed by law, pay into the treaſury the full amount of the public revenue due from the counties in which they now act, or hereafter may act as ſheriffs, ſhall at the time of making ſuch payments reſpectively, be entitled to an additional compenſation of two and an half per centum on the amount of the taxes by them accounted for and paid into the treaſury, over and above the commiſſion heretofore allowed by law in ſuch caſes.

III. All ſheriffs who have paid into the treaſury the full amount of the taxes due from their reſpective counties, for the year one thouſand ſeven hundred and ninety-five, on or before the time preſcribed by law, ſhall alſo receive in addition to the commiſſion heretofore allowed by law, a commiſſion of two and an half per centum upon the amount of the taxes by them ſo paid into the treaſury; and the auditor of public accounts is hereby directed to iſſue to the ſaid ſheriffs in all ſuch caſes, warrants on the treaſurer for the amount of all ſuch commiſſions to which they may be reſpectively entitled under this act; any law to the contrary or ſeeming to the contrary notwithſtanding.

SLAVES.

December the 23d, 1796.

§ I. IT ſhall and may be lawul for any citizen of the United States, reſiding in or owning lands within this ſtate, who has carried or may carry any ſlave or ſlaves born within this ſtate, into any other ſtate, and who has not ſold or hired or ſhall not hereaf-

ter ſell or hire out ſuch ſlaves, to bring him, her, or them, back again into Virginia without incurring any penalty therefor, nor ſhall ſuch ſlave or ſlaves be entitled to freedom on that account

II. *Provided always*, that if any ſuch ſlave or ſlaves be entitled to freedom under the laws of that ſtate, to which he, ſhe, or they may have been or ſhall hereafter be removed, ſuch right ſhall remain; any thing in this act notwithſtanding.

TAXES.

December the 23d, 1796.

§ 1. THE public taxes for the year one thouſand ſeven hundred and ninety-ſix, ſhall be as follows, to wit: On lands, for every hundred dollars value agreeable to the equalizing law, twenty-five cents; for every ſlave above the age of twelve years (except ſcuh as have been or ſhall be exempted by reaſon of age or infirmity, by the reſpective county or corporation courts) twenty-eight cents; for every ſtud hore and jack aſs, the price at which ſuch horſe or aſs covers a mare the ſeaſon; for all other horſes, mules, mares and colts, ſix cents each; for every ordinary licenſe, ſix dollars and ſixty-ſeven cents; for every billiard table, fifty dollars; for all lots and houſes in towns, two dollars and ſeventy-eight cents, on every three hundred and thirty-three dollars and thirty-four cents of the rent thereof, to be aſcertained by the rent paid by the tenant; and where ſuch houſe or lot is in the occupation of the proprietor, the yearly rent or value ſhall be aſcertained by the commiſſioners of the revenue or either of them, by a compariſon of its value with other houſes or lots actually rented. *Provided*, that the owner or proprietor of any ſuch houſe or lot, if he thinks himſelf aggrieved by ſuch valuation, may appeal to the court by whom the commiſſioners were appointed, whoſe judgement as to the yearly rent or value ſhall be final. The ſaid commiſſioners or either of them to aſcertain the rent paid on houſes, or lots actually leaſed, may call on the tenant or proprietor to declare upon oath or ſolemn affirmation, what is the amount of rent paid for the ſame; and every perſon ſo called upon and refuſing to declare, ſhall forfeit and pay the ſum of three hundred dollars, to be recovered by motion on ten days previous notice, to be made by the commiſſioners of the revenue or either of them; for every four wheeled riding carriage, except phætons and ſtage waggons, one dollar per wheel; for all phætons and ſtage waggons, ſixty-ſeven cents per wheel; for every other riding carriage with two wheels, thirty-four cents per wheel. *Provided*, That no tax ſhall be collected on lands, lots, houſes, or other property belonging to this commonwealth, or to any county, town, college, houſes for divine worſhip or ſeminary of learning.

II. The following tax on law proceſs ſhall be paid: On each writ or declaration in ejectment, inſtituting a ſuit in the diſtrict court, or ſubpœna in the high court of chancery, the ſum of one dollar; on each appeal to the high court of chancery, two dollars; on each writ of error, ſuperſedeas, and habeas corpus cum cauſa, or certiorari iſſued from the general court, a diſtrict court, or high court of chancery, one dollar; on each appeal from any county court or court of huſtings to a diſtrict court, one dollar; the ſaid taxes ſhall by the reſpective clerks be taxed in the bill of coſts; on each certificate under the ſeal of any county or corporation court, there ſhall be paid a tax of one dollar. No writ, ſubpœna, or any writ of error, ſupercedeas, certiorari, or habeas corpus cum cauſa ſhall be iſſued, or declaration in ejectment, filed by any clerk, unleſs the taxes hereby impoſed thereon be firſt paid down. In all appeals no tranſcript of the record ſhall be delivered to the appellant by the clerk of the court, or forwarded by him to a ſuperior court, before the tax thereon be paid, nor ſhall any certificates under the ſeal of any county or corporation court be granted, until the tax thereon ſhall have been firſt paid to the clerk keeping ſuch

ſeal. There ſhall be paid forty-two cents for every transfer of a ſurveyors certificate for land, to be collected by the regiſter of the land-office before the iſſuing of the patent. For every atteſtation, proteſtation, and all other inſtruments of publication from a notary public under his ſeal of office, fifty cents, to be collected and accounted for by the ſaid notary public, and one dollar for each certificate under the ſeal of the commonwealth, to be collected by the clerk of the council before the delivery of ſuch certificate, which laſt mentioned taxes ſhall be accounted for and paid in like manner, and with the like commiſſions for collecting as is directed in the caſe of other taxes impoſed by this act.

TOBACCO.

December the 26th, 1796—but commenced Jan. 1, 1797.

§ I. WHEREAS the act, intituled, "An act for reducing into one, the ſeveral acts of aſſembly for the inſpection of tobacco," hath in many parts been found defective, and it is neceſſary that the ſame ſhould be amended:

II. The courts of the ſeveral counties wherein public warehouſes for the inſpection of tobacco have been or may be eſtabliſhed, ſhall annually, in the months of Auguſt or September, appoint one or more commiſſioners, of capacity and integrity, whoſe duty it ſhall be to provide that proper conveniences and repairs be provided and made at the ſeveral warehouſes in their county; that proper ſcales and weights be provided, kept in repair, and examined and compared with the ſtandard weights of the county once in ſix months at leaſt; that they viſit in the ſame ſpace of time each warehouſe at leaſt once, and ſee that the tobacco therein is properly ſtored away and ſecured. and that the inſpectors in all things diligently diſcharge their duty; and if they ſhall diſcover in any inſpector any negligence or breach of his duty, they ſhall certify the ſame to the executive if it be of ſuch a nature as to remove ſuch inſpector from office, and in all other caſes, ſuch neglect or breach of duty ſhall be certified to the court which appointed ſuch inſpector, whereupon they ſhall proceed againſt him according to law: *Provided*, That to the warehouſes in the town of Peterſburg, one perſon ſhall be appointed by the court of each of the counties of Prince George, Dinwiddie, and Cheſterfield; that to the warehouſes in Richmond and Mancheſter, one perſon ſhall be appointed by the court of each of the counties of Henrico and Cheſterfield, and to the warehouſes in Frederickſburg and Falmouth, one perſon ſhall be appointed by the court of each of the counties of Spotſylvania and Stafford; and that the perſons ſo appointed ſhall proceed jointly in performing the duties required by this act.

II. Each commiſſioner appointed as aforeſaid, ſhall be allowed two dollars per day for every day he ſhall be employed in performing the duties required by this act, which ſervices ſhall be aſcertained by the court which appointed him, and by them certified to the auditor of public accounts, who ſhall iſſue a warrant on the treaſury for the ſame; the auditor ſhall in like manner iſſue warrants for expences incurred by ſuch commiſſioners or others acting under their directions in executing the ſervices herein required, after due proof that the ſame have been performed.

IV. And if any commiſſioner appointed by virtue of this act, ſhall fail to perform the duties thereby required, he ſhall, on motion to the court which appointed him, be diſplaced or fined by ſuch court, to the uſe of the commonwealth, in ſuch ſum as they ſhall think proper, recoverable in the ſame manner as fines againſt ſheriffs failing to pay money received on executions.

V. If any inſpector ſhall after the firſt day of October next, paſs any tobacco packed in hogſheads which exceed fifty-four inches in the length of the ſtave, or thirty-four inches in the head within the crow, making reaſonable allowance for prizing, which al-

lowance ſhall not exceed two inches above the gauge in the prizing head, he ſhall for every ſuch offence, be fined five dollars, to be recovered and appropriated as other fines againſt inſpectors under the before recited act.

VI. Every inſpector who ſhall re-iſſue or paſs away any tobacco note after the delivery of the tobacco for which the ſame was granted, ſhall ſuffer as a felon without the benefit of clergy.

VII. An additional allowance of twenty-five per centum be made to each and every inſpector of tobacco throughout this commonwealth on the ſalaries heretofore allowed them by law, provided that the duties ariſing from the ſhipping of tobacco from the reſpective warehouſes ſhall be adequate to diſcharge the ſaid ſalaries.

VIII. In lieu of the allowance now made by law to pickers of tobacco, theyſhall be and are hereby allowed to demand and receive for every hogſhead of tobacco by them opened, thirty-three cents and one third of a cent; and every inſpector ſhall be authoriſed to demand and receive in lieu of the allowance now made by law, ſeventeen cents for finding nails; which ſums ſhall be paid and received in the ſame manner as the allowance already made for the ſame ſervices.

IX. If any perſon ſhall preſume to manufacture tobacco without giving bond as required by law, he ſhall for every ſuch offence forfeit and pay to the uſe of the commonwealth one hundred dollars, to be recovered before the court of the county or corporation within which ſuch offender may reſide, by action of debt or information, wherein the defendant ſhall be ruled to bail: *Provided*, That nothing herein contained ſhall be conſtrued to extend to any perſon manufacturing tobacco of his own make. Every inſpector of tobacco is hereby authoriſed and empowered to inſpect any tobacco manufactured in the county wherein the warehouſe at which he is appointed ſhall ſtand, and if in his opinion ſuch tobacco be good, clean, and merchantable, he ſhall paſs the ſame, ſtamp and mark the caſk wherein it is packed or prized, and grant a certificate that the ſame hath been inſpected according to law. He ſhall inſpect no tobacco for which the manufacturer thereof ſhall not produce a manifeſt, but is hereby authoriſed and directed to ſeize ſuch tobacco wherever it may be found, diſpoſe thereof and pay the money ariſing therefrom into the public treaſury.

X. And whereas it is ſuggeſted that under the fifty-firſt ſection of the ſaid recited act, the inſpection of tobacco eſtabliſhed at Deacon's-neck is diſcontinued: The ſaid inſpection ſhall be and is hereby revived and continued under the ſame regulations as inſpections lawfully eſtabliſhed.

XI. So much of all acts or parts of acts as contravenes the operation of this act, ſhall be, and the ſame are hereby repealed. *Provided always*, That nothing in this act ſhall be conſtrued to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been veſted, or incurred prior to the commencement of this act.

XII. *And provided alſo*, That the courts of the counties wherein any inſpection of tobacco may be eſtabliſhed, ſhall proceed to appoint the commiſſioners in this act mentioned, at the courts holden for their reſpective counties in the months of January or February next.

December the 8th, 1796.

§ I. INSPECTIONS of tobacco ſhall be, and are hereby eſtabliſhed on the lands of John Towns, at the Buffaloe falls in the county of Prince-Edward, to be called and known by the name of Towns's warehouſe; on the land of Iſham Clements, on Appamattox river in the county of Amelia, to be called and known by the name of Clements's warehouſe; on the land of Ralph Wormeley, in the county of Middleſex, to be called and known by the name of Roſegill warehouſe; on the lands of James, Thomas and Francis

Deane, on Willis's river in the county of Cumberland, to be called and known by the name of Deane's warehouſe; and on the lands of William Campden, at the place called Miginſon's warehouſe in the county of Amherſt, to be called and known by the name of Campden's warehouſe; the proprietors whereof ſhall build the ſame at their own expence.

II. There ſhall be allowed and paid annually, to each of the inſpectors at Towns's warehouſe, the ſum of one hundred dollars; to each of the inſpectors at Clements's warehouſe, the ſum of one hundred and ten dollars; to each of the inſpectors at Roſegill warehouſe, the ſum of ſixty dollars; to each of the inſpectors at Deane's warehouſe, the ſum of one hundred and fifty dollars; and to each of the inſpectors at Campden's warehouſe, the ſum of one hundred and thirty-three dollars, thirty-three cents, for their ſalary.

III. *Provided always*, that if the quantity of tobacco inſpected at the ſaid warehouſes, ſhall not be ſufficient to pay the uſual charges, and the inſpector's ſalaries, the deficiency ſhall not be paid by the public.

November the 22d, 1796.

§ I. WHEREAS by the exiſting law concerning the inſpection of tobacco, it is enacted, that the courts of the ſeveral counties within the ſtate, wherein any of the public warehouſes are eſtabliſhed, ſhall once in every year and no oftener, at their reſpective courts holden in the months of Auguſt or September, nominate, and recommend to the governor for the time being, for ſo many offices of inſpection as are or ſhall be in their reſpective counties, four fit and able perſons reputed to be ſkilful in tobacco, for the execution of the office of inſpectors, which nomination the ſaid courts ſhall cauſe to be entered upon record, and the clerks of the ſaid courts, are thereby required forthwith, to tranſmit a certificate of the ſame to the clerk of the council; and that out of the ſaid four perſons nominated and recommended for each inſpection, the governor, with the advice and conſent of council, ſhall chooſe and appoint two to execute the office of inſpectors at ſuch inſpection; and in caſe of the death, reſignation or removal of any inſpector, the governor ſhall appoint any perſon named in the laſt recommendation from the county court, for that inſpection where the vacancy ſhall happen, to ſucceed him until the next nomination and appointment of inſpectors:

II. And whereas, under the operation of the ſaid law, the executive of this ſtate have had occaſion to remove from office inſpectors of tobacco; and the additional perſons nominated by the county courts, for the execution of the office of inſpectors at the warehouſe in which the removal took place, are ſuppoſed in one inſtance, unable to give bond for the due performance of their office, and in another, have been abſent from this commonwealth at the time when the ſaid removal took place; and the executive in that inſtance, have found themſelves unable to appoint under the ſaid law, any other than the individuals before recommended, and the courts of the counties are in like manner unable, before the months of Auguſt or September ſucceeding the removal of the ſaid inſpectors, to recommend other perſons to the executive as inſpectors; whereby the warehouſe in queſtion may for a conſiderable time be ſhut up for want of inſpectors to the ſame, to the great detriment of the public and of individuals; for remedy whereof,

III. In any caſe where the executive ſhall have heretofore removed, or ſhall hereafter remove any inſpectors of tobacco from office, and the additional perſons nominated to them by the court of the county, or either of them, ſhall be unable to give ſecurity for the execution of their office, or ſhall, from information given to the executive, be conceived by them unfit to diſcharge the functions of the ſaid office, or ſhall be abſent from this commonwealth, the executive ſhall have full power and authority, to appoint any other two perſons in the county where ſuch warehouſes are, to act as inſpectors of the ſame, until the next nomination and appointment of inſpectors by the court of the county; any thing in the ſaid law to the contrary, notwithſtanding.

TOWNS, CORPORATIONS AND CITIES.

December the 27th, 1796.

THE office of any truſtee or director of any town within this commonwealth, ſhall become vacant by the removal of ſuch truſtee or director out of the county, within which ſuch town may be, and that vacancies ſo happening, ſhall be ſupplied in like manner as is directed by the act, intituled, "An act to empower the freeholders of the ſeveral "towns not incorporated, to ſupply the vacancies of the truſtees and directors thereof."

USURY.

November the 23d, 1796—but commenced May 1, 1797.

§ I. NO perſon upon any contract entered into upon or after the firſt day of May next, ſhall take directly or indirectly, for loan of any money, wares or merchandiſe above the value of ſix dollars for the forbearance of one hundred dollars for a year, and after that rate for a greater or leſſer ſum or for a longer or ſhorter time; and all bonds, contracts, covenants, convevances, or aſſurances thereafter to be made for payment or delivery of any money or goods ſo to be lent, on which a higher intereſt is reſerved or taken than is hereby allowed, ſhall be utterly void.

II. If any perſon ſhall by any way, or means of any corrupt bargain, loan, exchange, ſhift, covin, device, or deceit, take, accept, or receive for the loan, or giving day of payment for money, wares, merchandize, or other commodity above the rate of ſix dollars for one hundred dollars for one year, every perſon ſo offending, ſhall forfeit double the value of the money, wares, merchandize, or commodity ſo lent, exchanged, or ſhifted, one moiety to the uſe of the commonwealth, and the other to the informer, to be recovered with coſts.

III. Any borrower of money or goods, may exhibit a bill in chancery againſt the lender, and compel him to diſcover upon oath, the money or thing really lent, and all bargains, contracts, or ſhifts which ſhall have paſſed between them relative to ſuch loan or the repayment thereof, and the intereſt and conſideration for the ſame, and if thereupon it ſhall appear that more than lawful intereſt was reſerved, the lender ſhall be obliged to accept his principal money without any intereſt or conſideration, and pay coſts, but ſhall be diſcharged of all other penalties of this act.

IV. So much of the ſaid recited act as comes within the purview of this act, ſhall be, and the ſame is hereby repealed.

Laws omitted in the Reviſed Code.

ELECTORS.

October the 10th, 1792.

§ I. FOR the purpoſe of chooſing twenty-one electors on behalf of this ſtate, to vote for a preſident and vice-preſident of the United States, the ſeveral counties in this commonwealth ſhall be allotted into twenty one diſtricts, in manner following, to wit: The counties of Northampton, Accomack, and Princeſs-Anne, ſhall compoſe one diſtrict: the counties of New-Kent, Henrico, Charles City, James City, York, Warwick, and Elizabeth City, ſhall compoſe another diſtrict: the counties of Hanover, Caroline, and Louiſa, ſhall compoſe another diſtrict: the counties of Fluvanna, Albemarle, Amherſt, and Goochland, ſhall compoſe another diſtrict: the counties of Orange, Culpeper, and Spotſylvania, ſhall compoſe another diſtrict: the counties of King and Queen, King William, Eſſex, Middleſex, Glouceſter, and Mathews, ſhall compoſe another diſtrict: the counties of Norfolk, Nanſemond, and Iſle of Wight, ſhall compoſe another diſtrict: the counties of Suſſex, Southampton, Surry, Prince George, and Greenſville, ſhall compoſe another diſtrict: the counties of Brunſwick, Dinwiddie, and Mecklenburg, ſhall compoſe another diſtrict: the counties of Amelia, Nottoway, Cheſterfield, and Powhatan, ſhall compoſe another diſtrict: the counties of Prince Edward, Buckingham, Cumberland, and Lunenburg, ſhall compoſe another diſtrict: the counties of Halifax, Charlotte, and Pittſylvania, ſhall compoſe another diſtrict: the counties of Bedford, Campbell, Franklin, Henry, and Patrick, ſhall compoſe another diſtrict: the counties of Richmond, Northumberland, Lancaſter, Weſtmoreland, and King George, ſhall compoſe another diſtrict: the counties of Prince William, Stafford, and Fairfax, ſhall compoſe another diſtrict: the counties of Fauquier, and Loudoun, ſhall compoſe another diſtrict: the counties of Frederick, and Berkeley, ſhall compoſe another diſtrict: the counties of Rockingham, Auguſta, and Shenandoah, ſhall compoſe another diſtrict: the counties of Bath, Botetourt, Rockbridge, Greenbrier, and Kanawha, ſhall compoſe another diſtrict: the counties of Hardy, Hampſhire, Pendleton, Randolph, Harriſon, Monongalia, and Ohio, ſhall compoſe another diſtrict: and the counties of Wythe, Montgomery, Waſhington, and Ruſſell, ſhall compoſe another diſtrict.

II. That the perſons qualified by law to vote for members to the general aſſembly, in each county compoſing a diſtrict, and in the cities and boroughs entitled to repreſentation in the general aſſembly, ſhall aſſemble at their reſpective courthouſes, on the firſt Monday in November next, and on the firſt Monday in November, in every fourth year hereafter, and then and there vote for ſome diſcreet and proper perſon, being a freeholder, and bona fide reſident in ſuch diſtrict, for twelve months, as an elector for ſuch diſtrict, to vote for a preſident and vice-preſident of the United States.

III. That the high ſheriff of each county, or in caſe of ſickneſs or inability to attend, one of the deputy ſheriffs, and the mayor or ſerjeant of each corporation, being firſt duly ſworn by a magiſtrate of the county or corporation to act impartially, and a certificate of the taking ſuch oath, under the hand of the magiſtrate delivered to him, ſhall conduct the ſaid election, at which no determination ſhall be had by view, but each perſon qualified to vote, ſhall fairly and publicly poll, and the name of the voter ſhall be duly entered under the name of the perſon voted for, in proper poll books, to be provided by the officer conducting the election, for which purpoſe he ſhall appoint ſo many writers as he ſhall think fit, who ſhall reſpectively take an oath to be by him adminiſtered, or make ſolemn affirmation, that

they will take the poll faithfully and impartially. He shall deliver a poll book to each writer, who shall enter in distinct columns, under the name of the person voted for, the name of each voter, voting for such person. Like proclamation and proceeding shall be had for continuing and closing the poll in each county and corporation of a district, as prescribed by law, in the election of members to the general assembly; and proclamation shall also be made at the courthouse door of the person having the greatest number of votes on the poll at the closing thereof.

IV. Each voter shall be entitled to the same privilege from arrests, and be subject to the like penalty and forfeiture for failing to attend, and vote at such election, as prescribed by law in the election of members to the general assembly; such failure to attend to be discovered and proceeded upon in like manner, and under the same penalties, as is by law prescribed against such failures in the election of members to the general assembly.

V. Immediately after each election in a county or corporation, the clerk of the polls having first signed the same, and made oath to the truth thereof, a certificate of which oath, under the hand of a magistrate of a county, shall be subjoined to each poll, shall deliver the same to the sheriff or other officer, who conducted the election, and such sheriff or other officer, together with the respective sheriffs who conducted the poll of the several counties in the district, except in the case of the disability or sickness of such sheriff, then any other sheriff of the county in which such sickness or disability may happen, shall, on the Monday next after the said election, assemble at the courthouse of the county first named in such district, and then and there compare the polls respectively taken at the election in their several counties and corporations, and having ascertained by faithful addition and comparison of the numbers on the respective polls the person having the greatest number of votes upon the whole, giving their own votes, in any case of the two foremost on such poll having an equal number of votes, shall proceed to certify such election, under their hands and seals, in manner and form following, to wit:

"We, A. B. sheriff of county, or deputy sheriff, (as the case may be) C. "D. sheriff of county, and E. F. mayor or serjeant, (as the case may be) of the "city or borough of (and so on, reciting the name of the sheriff or other offi- "cer, whether principal or deputy, of each county, city, or borough in the district) com- "posing one entire district entitled by law to appoint an elector to vote for a president "and vice-president of the United States, do hereby certify and make known, that at an "election held on the first Monday of November, at the courthouses of our respective "counties, cities, and boroughs, pursuant to law, the voters qualified to vote for an elector "to choose a president and vice-president of the United States, caused to be chosen one "person, to wit; G H. to represent the said district, as an elector to vote for a president "and vice-president of the United States. Given under our hands and seals, this day "of one thousand seven hundred and ."

VI. Two fair duplicates of such certificate and return shall be made by the said sheriffs and other officers, under their hands and seals, in the manner before recited, one of which shall be delivered to the person elected to represent the district, and the other shall be transmitted to the governor and council, within fifteen days, under the penalty of three hundred dollars, upon such sheriff or other officer holding such election, in case of failure herein; to be recovered by motion in any court of record by the attorney general, to the use of the commonwealth. And the governor and council shall thereupon advertise in the public gazette, the names of the persons so elected, who shall assemble in the city of Richmond on the first Wednesday in December next, and on every first Wednesday in the month of December in every fourth year thereafter, to vote for a president and vice president of the United States. Each elector chosen pursuant to this act, and failing to attend and vote for a president and vice-president of the United States at the time and place herein directed, shall, except in cases of sickness or any other unavoidable accident, forfeit and pay six hundred dollars; to be recovered by the attorney general, to the use of the commonwealth, by action of debt, bill, plaint, or information, in any court of record.

VII. The ſaid ſheriffs and other officers ſhall, under the penalty of one hundred and fifty dollars, to be recovered on motion by the attorney general, to the uſe of the commonwealth, in manner aforeſaid, deliver to the clerks of the reſpective counties, cities, or boroughs, within ten days after making their returns as aforeſaid, the original poll books, to be by ſuch clerks entered of record, under the like penalty for failure as for failing to record the poll-books taken at the election of members to the general aſſembly, and recoverable in like manner.

VIII. Any ſheriff, deputy ſheriff, or other officer, refuſing to take the poll, when he ſhall be required by a candidate or perſon qualified to vote for members to the general aſſembly, or taking it in other manner than is herein before preſcribed, or making or ſigning a falſe certificate or return of election as herein before directed, or making any erazure or alteration in the poll books, or refuſing to ſuffer any candidate or perſon qualified to vote, at his own expence, to take a copy of the poll-books, ſhall forfeit and pay three hundred dollars; which penalty may be recovered with coſts, in action of debt, by any perſon who will ſue for the ſame; one half to his own uſe, and the other half to the uſe of the commonwealth.

IX. Any candidate or other perſon in his behalf, who ſhall directly or indirectly give or agree to give any voter or pretended voter, money, meat, drink, or other reward, in order to be elected, or for having been elected, ſhall forfeit and pay fifteen hundred dollars for each offence; to be recovered with coſts, by action of debt, to the uſe of any perſon who will proſecute for the ſame.

X. The electors ſo appointed to chooſe a preſident and vice-preſident of the United States, ſhall be allowed for their travelling expences, ſeven cents per mile, and ferriages, and for their daily attendance, one dollar and ſixty ſeven cents, and be entitled to the ſame privileges from arreſts as members to the the general aſſembly. The ſame allowance ſhall be made to the ſheriffs and other officers for their travelling expences and attendance for comparing the polls.

XI. No perſon ſhall be allowed to vote more than once in the ſame year, for any elector to be choſen purſuant to this act.

The repealing clauſe is the ſame in ſubſtance, as in the appendix, No. 11.

REPRESENTATIVES TO CONGRESS.

December the 26th, 1792.

§ 1. THE counties of this commonwealth ſhall be divided into nineteen diſtricts in manner following, to wit: The counties of Frederick and Berkeley ſhall compoſe one diſtrict; the counties of Auguſta, Rockingham, Shenandoah, Rockbridge and Bath, ſhall compoſe another diſtrict: the counties of Hampſhire, Hardy, Pendleton, Randolph, Harriſon, Monongalia, and Ohio, ſhall compoſe another diſtrict: the counties of Wythe, Greenbrier, Kanawha, Lee, Ruſſell, Montgomery, Grayſon, and Waſhington, ſhall compoſe another diſtrict: the counties of Franklin, Bedford, Botetourt, Henry and Patrick, ſhall compoſe another diſtrict: the counties of Halifax, Pittſylvania, and Campbell, ſhall compoſe another diſtrict: the counties of Prince-Edward, Charlotte, Buckingham, Cumberland, and Powhatan, ſhall compoſe another diſtrict: the counties of Brunſwick, Mecklenburg, Lunenburg, and Greenſville, ſhall compoſe another diſtrict: the counties of Dinwiddie, Amelia, Nottoway, and Cheſterfield, ſhall compoſe another diſtrict: the counties of Suſſex, Southampton, Surry, and Prince-George, ſhall compoſe another diſtrict: the counties of Norfolk, Princeſs Anne, Iſle of Wight, and Nanſemond, ſhall compoſe another diſtrict: the counties of York, Accomack, Northampton, Elizabeth City, Warwick, Glouceſter, and Mathews, ſhall compoſe another diſtrict: the counties of Henrico, Hanover, New-Kent, Charles City, and James City, ſhall compoſe another diſ-

trict: the counties of Albemarle, Amherſt, Fluvanna, and Goochland, ſhall compoſe another diſtrict: the counties of Orange, Spotſylvania, Louiſa, and that part of Culpeper eſtabliſhed as a county by the name of Madiſon, ſhall compoſe another diſtrict: the counties of King & Queen, King William, Eſſex, Middleſex, and Caroline, ſhall compoſe another diſtrict: the counties of Loudoun, Fairfax, and Prince William, ſhall compoſe another diſtrict: the county of Culpeper as now divided, with the counties of Fauquier, and Stafford, ſhall compoſe another diſtrict: and the counties of Richmond, Weſtmoreland, King George, Lancaſter, and Northumberland, ſhall compoſe another diſtrict.

II. The perſons qualified by law to vote for members to the houſe of delegates in each county and corporation compoſing a diſtrict, ſhall aſſemble at their reſpective county courthouſes, on the third Monday in March next, and alſo on the third Monday in March in every ſecond year thereafter, and then and there vote for ſome diſcreet and proper perſon, being a freeholder and reſident within ſuch diſtrict, as a member of the houſe of repreſentives for the United States.

III. The high ſheriff of each county, or in caſe of his ſickneſs or inability to attend one of the deputy ſheriffs (except in ſuch counties where there ſhall be no ſheriff) ſhall conduct the ſaid election, at which no determination ſhall be had by view, but each perſon qualified to vote, ſhall fairly and publicly poll, and the name of the voter ſhall be duly entered under the name of the perſon voted for, in proper poll books, to be provided by the officer conducting the election, for which purpoſe he ſhall appoint ſo many writers as he ſhall think fit, who ſhall reſpectively take an oath, to be adminiſtered by him, or make ſolemn affirmation, that they will take the poll fairly and impartially. He ſhall deliver a poll book to each writer, who ſhall enter in diſtinct columns under the name of the perſon voted for, the name of each elector voting for ſuch perſon. Like proclamation and proceeding ſhall be had for conducting, continuing, and cloſing the poll in each county of a diſtrict, as is preſcribed by law in the election of members to the general aſſembly: and proclamation ſhall alſo be made at the courthouſe door, or place of holding ſuch election of the perſon having the greateſt number of votes on the poll at the cloſing thereof. Each elector ſhall be entitled to the ſame privilege from arreſts, and be ſubject to the like penalty and forfeiture for failing to attend and vote at ſuch election, as is preſcribed by law, in the caſe of election of members to the general aſſembly. Such failure to attend to be diſcovered and proceeded on in like manner, and under the ſame penalties, as is provided againſt the failures in the election of members to the general aſſembly.

IV. Immediately after each election in a county, the clerks of the poll having firſt ſigned the ſame, ſhall deliver the ſame to the ſheriff or other officer who conducted the election, and ſuch ſheriff or other officer, together with the reſpective ſheriffs and other officers who conducted the poll of the ſeveral counties in the diſtrict (but in caſe of ſickneſs, death, or other diſability of the officer who ſhall have conducted the poll, then any other ſheriff or officer of the county in which ſuch diſability may happen) ſhall, on the eighth day after the election, aſſemble at the courthouſe of the county firſt named in ſuch diſtrict, and then and there compare the polls reſpectively taken at the elections in their ſeveral counties, and having aſcertained by faithful addition, and compariſon of the numbers on the reſpective polls the perſon having the greateſt number of votes upon the whole, giving their own votes in any caſe of the two foremoſt on ſuch poll, having an equal number of votes, ſhall proceed to certify ſuch election, under their hands and ſeals, in manner and form following, to wit:

"We, A. B. ſheriff of county (or deputy ſheriff, as the caſe may be) C. D. "ſheriff of county (as the caſe may be) and ſo reciting the name of the ſheriff "or magiſtrate, and whether principal or deputy of each county in the diſtrict, compoſing "one entire diſtrict, entitled by law to elect a member to the houſe of repreſentatives of "the United States, do hereby certify and make known, that at an election held on "at the place of holding elections in our reſpective counties, purſuant to law, the electors "qualified to vote for the member to the houſe of delegates, cauſed to be choſen one perſon

"to wit, G. H. to repreſent the ſaid diſtrict as a member of the houſe of repreſentatives for "the United States. Given under our hands and ſeals, this day of one "thouſand hundred and

Two fair duplicates of ſuch certificate and return ſhall be made by the ſaid ſheriff, and other officers under their hands and ſeals, in the manner before recited, one of which ſhall be delivered to the perſon elected to repreſent the diſtrict, and the other ſhall be tranſmitted to the governor and council, within twenty days, under the penalty of three hundred dollars upon each ſheriff, or other officer, in caſe of failure or neglect herein; to be recovered by motion in any court of record, by the auditor of public accounts to the uſe of the commonwealth, on ten days previous notice of ſuch motion.

V. The ſaid ſheriffs and other officers, ſhall alſo under like penalty and recovery, deliver to the clerks of their reſpective counties, within ten days after ſuch return, the original poll books, to be by ſuch clerk entered of record under the like penalty for failure, as for failing to record the poll books taken at the election of members to general aſſembly; and where a poll ſhall be taken in any county which ſhall not become ſo, until after the election, which ſhall firſt be holden in purſuance of this act, the officer conducting ſuch election ſhall deliver the poll books by him kept, to the clerk of his county, as the ſame now ſtands, to be by him alſo recorded under the like penalty.

VI. It ſhall be the duty of the executive to incloſe to the congreſs of the United States the certificates and returns of elections aforeſaid, tranſmitted to them from the reſpective diſtricts without delay.

VII. Any ſheriff or other officer, refuſing to take the poll when he ſhall be required by a candidate or elector; or taking it in any other manner than is herein before preſcribed; or making or ſigning a falſe certificate or return of election as herein before directed; or making any erafure or alteration in the poll book; or refuſing to ſuffer any candidate or elector at his own expenſe to take a copy of the poll book, ſhall forfeit and pay ſix hundred dollars; which penalties may be recovered with coſts, in actions of debt, by any perſon who will ſue for the ſame; one half to his own uſe, and the other half to the uſe of the commonwleath.

VIII. Any condidate or other perſon in his behalf, who ſhall directly or indirectly give or agree to give, any elector or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected, ſhall forfeit and pay fifteen hundred dollars for each offence; to be recovered with coſts, by action of debt, to the uſe of any perſon who will ſue for the ſame.

IX. The ſheriffs and other officers, ſhall receive for their trouble and expenſe in conducting the ſaid elections, one dollar and ſixty-ſeven cents for the day on which they ſhall attend to compare the different polls, together with an allowance of ferriages, and four cents a mile for travelling to and from the county, in which they ſhall meet for that purpoſe, to be paid in the ſame manner as the electors, who are to vote for a Preſident of the United States, are paid.

X. Until the counties of Madiſon, Grayſon, and Lee ſhall take effect, elections of repreſentatives for congreſs ſhall be holden at the places appointed by law for holding the firſt courts in ſuch counties, and ſhall be conducted by the firſt magiſtrate of the ſaid counties, or in caſe of ſickneſs or other inability, the next in commiſſion who ſhall attend the election, under the like regulations as elections are held in the other counties within this commonwealth.

XI. No perſon entitled to ſuffrage in purſuance of this act, ſhall during the ſame election, vote more than once for the ſame candidate, under the penalty of one hundred dollars, to be recovered by action of debt, in any court of record, by any perſon who will ſue for the ſame.

APPENDIX,

CONTAINING THE FORMS OF REPEALING CLAUSES.

No. I. ALL and every ſtatute and ſtatutes, act and acts, within the purview of this act, ſhall be, and the ſame are hereby repealed.

No. II. All and every act or acts, and part of acts, within the purview of this act, ſhall be, and the ſame are hereby repealed.

No. III. All and every act and acts, clauſe and clauſes of acts, containing any thing within the purview of this act, (except as herein after provided) ſhall be, and the ſame are hereby repealed: *Provided always*, that nothing in this act contained, ſhall be conſtrued to repeal any act heretofore made, for ſo much thereof as may relate to any offence done before the commencement of this act.

No. IV. All and every act and acts, clauſe and clauſes of acts, containing any thing within the purview of this act, ſhall be, and the ſame are hereby repealed.

No. V. All and every act or acts, within the purview of this act, ſhall be, and are hereby repealed. *Provided*, that nothing herein contained, ſhall be conſtrued to extend to any contract or right, which has accrued prior to the commencement of this act; but the ſame ſhall remain in the ſame condition, as if this act had never been made.

No. VI. All and every act and acts, clauſe and clauſes of acts, coming within the purview of this act, ſhall be, and the ſame are hereby repealed.

No. VII. All and every ſtatute, and act or clauſe and clauſes of any ſtatute or act, coming within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided nevertheleſs*, that nothing herein contained, ſhall be conſtrued to affect any right, which may have accrued or been veſted before the commencement.

No. VIII. All and every act and acts, clauſes and parts of acts, for, or concerning any matter or thing within the purview of this act, ſhall be, and the ſame are hereby repealed.

No. IX. Every clauſe and part of any act, within the purview of this act, ſhall be, and the ſame is hereby repealed.

No. X. All and every act, clauſe and clauſes of acts coming within the purview of this act, ſhall be, and the ſame are hereby repealed.

No. XI. All acts and parts of acts within the purview of this act, ſhall be, and are hereby repealed.

No. XII. All and every act and acts, clauſes and parts of acts, concerning and coming within the purview of this act, ſhall be, and are hereby repealed.

No. XIII. All and every act, clauſe and parts of acts within the purview of this act, ſhall be, and the ſame are hereby repealed.

No. XIV. All and every act and parts of acts, within the purview of this act, ſhall be, and the ſame are hereby repealed.

No. XIV. So much of every act and acts, as comes within the purview of this act, ſhall be, and the ſame are hereby repealed.

No. XV. All and every act and acts, clauſe and clauſes of acts, coming within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided always*, that the rights, remedies, fines, forfeitures and penalties, incurred previous to the paſſing of this act, ſhall remain in the ſame condition, as if this act had never been made.

No. XVI. All and every act and acts, clauſe and clauſes of acts, within the purview of this act, ſhall be, and are hereby repealed.

No. XVII. All acts and parts of acts, coming within the purview of this act, ſhall be, and are hereby repealed. *Provided always*, that nothing in this act ſhall be conſtrued to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been veſted, or incurred prior to the commencement of this act.

No. XVIII. All and every ſtatute and ſtatutes, act, and acts, clauſes or clauſes thereof, within the purview of this act, except as herein after provided, ſhall be, and are hereby repealed. *Provided always*, that nothing in this act contained, ſhall be conſtrued to repeal the ſaid ſtatutes or acts, for ſo much thereof, as relates to any offence within the purview thereof, committed or done before the commencement of this act.

No. XIX. All and every other act and acts, clauſe and clauſes of acts heretofore made, for, or concerning any matter or thing within the purview of this act, ſhall be, and are hereby repealed.

No. XX. All and every act, clauſe and clauſes of acts coming within the purview if this act, ſhall be, and the ſame are hereby repealed. *Provided always*, that nothing in this act contained ſhall be conſtrued to repeal any act heretofore made, for ſo much thereof as may relate to any offence, committed or done before the commencement of this act.

No. XXI. All and every act and acts, coming within the purview of this act, ſhall be, and the ſame are hereby repealed.

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